

The Senate

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Rural and Regional Affairs  
and Transport  
References Committee

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Current requirements for labelling of seafood  
and seafood products

December 2014

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## **Abbreviations and acronyms**

ABFA	Australian Barramundi Farmers Association
APFA	Australian Prawn Farmers Association
AFNS	Australian Fish Names Standard
AMCS	Australian Marine Conservation Society
ASC	Aquaculture Stewardship Council
CLG	Common Language Group
Code	Australia New Zealand Food Standards Code
CoOL	Country of Origin Labelling
EU	European Union
FAO	Food and Agriculture Organisation
FRDC	(Australian) Fisheries Research and Development Corporation
FSANZ	Food Standards Australia New Zealand
Greenpeace	Greenpeace Australia Pacific
MFMA	Master Fish Merchants Association of Australia
MSC	Marine Stewardship Council
NSIA	National Seafood Industry Alliance
NT	Northern Territory
SFM	Sydney Fish Market
SIAA	Seafood Importers Association of Australasia
SSIA	Southern Shark Industry Alliance Inc.





# **List of recommendations**

## **Recommendation 1**

**3.63 The committee recommends that the exemption regarding country of origin labelling under Standard 1.2.11 of the Australia New Zealand Food Standards Code for cooked or pre-prepared seafood sold by the food services sector be removed, subject to a transition period of no more than 12 months.**



# Chapter 1

## Introduction

1.1 On 23 June 2014, the Senate referred the following matter to the Senate Rural and Regional Affairs and Transport References Committee (committee) for inquiry and report by 27 October 2014:

The current requirements for labelling of seafood and seafood products, with particular reference to the following matters:

- (a) whether the current requirements provide consumers with sufficient information to make informed choices, including choices based on sustainability and provenance preferences, regarding their purchases;
- (b) whether the current requirements allow for best-practice traceability of product chain-of-custody;
- (c) the regulations in other jurisdictions, with particular reference to the standards in the European Union (EU) under the common market regulation (EU) No 1379/2013 Article 35;
- (d) the need for consistent definitions and use of terms in product labelling, including catch area, species names, production method (including gear category), and taking into account Food and Agriculture Organisation guidelines;
- (e) the need for labelling for cooked or pre-prepared seafood products with reference to the Northern Territory's seafood country of origin regulation;
- (f) recommendations for the provision of consumer information as determined through the Common Language Group process conducted by the Fisheries Research and Development Corporation;
- (g) whether current labelling laws allow domestic seafood producers to compete on even terms with imported seafood products; and
- (h) any related matters.

1.2 On 2 October, the Senate agreed to extend the tabling date for the committee's report to 4 December 2014. On 27 November, the Senate granted a further extension of time, requiring the committee to report by 18 December 2014.

## Conduct of inquiry

1.3 The inquiry was advertised in *The Australian* and through the Internet. The committee invited submissions from interested organisations and bodies as well as individuals.

1.4 The committee received 23 public submissions. A list of individuals and organisations that made submissions to the inquiry together with other information authorised for publication is at Appendix 1. The committee held public hearings in Sydney on 29 September and Darwin on 13 November 2014. Details of the public hearings are referred to in Appendix 2. The submissions and Hansard transcript of evidence may be accessed through the committee's website at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport)

## Australian seafood industry

1.5 In 2010–11, Australian fisheries production amounted to \$2.26 billion (including \$1.31 billion wild-harvest and \$0.948 billion aquaculture), with a total harvest of 234,000 tonnes. The value of fisheries exports totalled \$1.2 billion and imports \$1.5 billion.<sup>1</sup>

1.6 Australian fisheries are highly regulated. Managed under the principles of ecological sustainable development, the fisheries are maintained not only for the long-term sustainability of the target species, but also for the sustainability of the broader marine environment. According to the Master Fish Merchants Association of Australia (MFMA), Australian fisheries are internationally recognised as some of the best managed in the world for these reasons.<sup>2</sup> Considerable evidence to the committee upheld the view that the combination of quality, range and sustainability credentials of Australia-produced seafood has enabled it to become highly valued both domestically and overseas.<sup>3</sup>

## Seafood consumption in Australia

1.7 Seafood consumption in Australia has doubled since 1975.<sup>4</sup> Evidence to the committee suggested that around 75 per cent of all seafood consumed in Australia now comprises imported fish and fish products.<sup>5</sup> The Australian Fisheries Research and Development Corporation (FRDC) noted that imported seafood typically makes

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1 National Seafood Industry Alliance, *Submission 10*, p. 4.

2 Master Fish Merchants Association of Australia, *Submission 8*, p. 1.

3 Mr Grahame Turk, National Seafood Industry Alliance, *Committee Hansard*, 29 September 2014, p. 48.

4 Greenpeace Australia Pacific, *Submission 6*, p. [1].

5 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 12; Greenpeace Australia Pacific, *Submission 6*, p. [1].

up more than half of the seafood range in the major supermarket chains.<sup>6</sup> This includes some 250 different species/product from both aquaculture and wild catch fisheries.<sup>7</sup> According to MFMA, Australia's dependence on imported product is due to the nature of Australian fisheries which are high quality, high value but low volume due to the lack of major upwellings (nutrient rich currents) and naturally low nutrient levels in the waters which limit productivity.<sup>8</sup> However, with an extensive fishing zone and diverse climatic and marine conditions, Australia produces a wide variety of seafood, both wild caught and farmed.<sup>9</sup>

1.8 Despite Australia's reliance on imported seafood and seafood products, according to research conducted in 2006, around 70 per cent of Australian consumers prefer local seafood to imported seafood.<sup>10</sup> Consumer research findings reveal that country of origin is second only to freshness in guiding consumer choices. According to various sources, research into this area has revealed that Australian consumers want to buy Australian produce with 90 per cent of Australians more likely to buy food products labelled 'Made in Australia'. However, evidence suggested that consumers are unable to readily identify the origin of seafood they buy and may be under the false impression or natural impression that they are consuming Australian seafood when actually consuming imported product.<sup>11</sup>

## **Acknowledgement**

1.9 The committee would to thank the individuals and organisations who contributed to the inquiry.

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6 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 12.

7 Master Fish Merchants Association of Australia, *Submission 8*, p. 1.

8 Master Fish Merchants Association of Australia, *Submission 8*, p. 1.

9 Mr Grahame Turk, National Seafood Industry Alliance, *Committee Hansard*, 29 September 2014, p. 48.

10 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 16.

11 National Seafood Industry Alliance, *Submission 10*, p. 5; Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 2.



## Chapter 2

### Current requirements in relation to labelling seafood and seafood products

2.1 The Australian food regulatory system involves all three levels of government – the Australian Government through Food Standards Australia New Zealand (FSANZ) and the Health, Industry and Agriculture portfolios; state and territory governments; and local governments.<sup>1</sup> Under the food regulation system, policy decision making is separated from the development of food regulatory measures.<sup>2</sup>

2.2 FSANZ is an independent statutory authority established under the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). FSANZ is responsible to develop and maintain food standards for Australia and New Zealand. These standards, including for labelling, apply to food produced for sale in, or imported to, Australia and New Zealand.<sup>3</sup> The standards are contained in the Australia New Zealand Food Standards Code (the Code). All foods, whether produced or imported for sale in Australia, are required to comply with the food safety and labelling requirements in the Code.

#### Australia New Zealand Food Standards Code

2.3 When developing food standards, FSANZ's primary objectives, in order of priority, include:

- protection of public health and safety;
- provision of adequate information relating to food to enable consumers to make informed choices; and
- prevention of misleading or deceptive conduct.<sup>4</sup>

2.4 Enforcement of the Code is the responsibility of state and territory enforcement agencies and, for imported food at the Australian border, the Department of Agriculture.<sup>5</sup> In New South Wales (NSW), as a case in point, the NSW Food Authority is the regulatory agency responsible to ensure compliance with the *Food Act 2003* (NSW) which applies the Code within that state.<sup>6</sup>

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1 Department of Agriculture, *Submission 11*, p. 3.

2 Department of Health, *Submission 22*, p. [1].

3 Food Standards Australia New Zealand, *Submission 5*, p. 3.

4 Food Standards Australia New Zealand, *Submission 5*, p. 3.

5 Food Standards Australia New Zealand, *Submission 5*, p. 3; Department of Health, *Submission 22*, p. [2].

6 NSW Food Authority, *Submission 19*, p. 2.

2.5 Part 1.2 of the Code – Labelling and Other Information Standards (contained within Chapter 1 – General Food Standards) details the eleven labelling standards and requirements relevant to all foods as follows:<sup>7</sup>

- Standard 1.2.1 – Application of Labelling and Other Information Requirements
- Standard 1.2.2 – Food Identification Requirements
- Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations
- Standard 1.2.4 – Labelling of Ingredients
- Standard 1.2.5 – Date Marking of Packaged Food
- Standard 1.2.6 – Directions for Use and Storage
- Standard 1.2.7 – Nutrition, Health and Related Claims
- Standard 1.2.8 – Nutrition Information Requirements
- Standard 1.2.9 – Legibility Requirements
- Standard 1.2.10 – Characterising Ingredients and Components of Food
- Standard 1.2.11 – Country of Origin Labelling [Australia only].<sup>8</sup>

2.6 Standard 1.2.2 requires the inclusion of a name or description of the food on a label that is sufficient to indicate the true nature of the food where there is no name prescribed in the Code for that food.

2.7 To ensure accuracy and truth in labelling, the *Competition and Consumer Act 2010* (CC Act) contains prohibitions against misleading or deceptive conduct and against false or misleading representations, including in relation to the place of origin of goods.<sup>9</sup> The CC Act specifies that, where goods satisfy certain requirements, it is permissible to make specific origin claims in relation to those goods without contravening the law.<sup>10</sup>

2.8 The Code does not provide a prescribed name for seafood or seafood products. However, Chapter 2 and specifically, Standard 2.2.3 details the requirements in relation to fish and fish products. It includes requirements to label certain formed or joined fish products with safe cooking instructions. An editorial note (rather than a mandatory provision) in relation to that standard states:

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7 Food Standards Australia New Zealand, *Submission 5*, p. 4.

8 Australia New Zealand Food Standards Code, Part 1.2 of Chapter 1, <http://www.foodstandards.gov.au/code/Pages/default.aspx> (accessed 17 September 2014).

9 Department of Agriculture, *Submission 11*, p. 3.

10 Department of Agriculture, *Submission 11*, p. 3.



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This Standard does not define specific names for fish. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia.<sup>11</sup>

2.9 Standard 1.2.4 requires that the label on a package of food includes a statement of ingredients. FSANZ noted that ingredients must be declared using either the common name of the ingredient, a name that describes the true nature of the food or, where applicable, a generic name as specified in the standard. The generic name 'fish' may be used in the statement of ingredients. However, if the ingredient is a crustacean, the specific name of the crustacea must be declared.<sup>12</sup>

### **Country of origin labelling requirements**

2.10 Standard 1.2.11 sets out the requirements for mandatory country of origin labelling. It applies to both domestic and imported foods.

2.11 The standard requires packaged food to be labelled with:

- (a) a statement on the package that identifies where the food was made, produced or grown; or
- (b) a statement on the package –
  - (i) that identifies the country where the food was manufactured or packaged; and
  - (ii) to the effect that the food is constituted from ingredients imported into that country or from local and imported ingredients.

2.12 Some packaged foods are exempt from country of origin labelling. These foods are:

- made and packaged on the premises from which they are sold;
- delivered packaged, and ready for consumption, at the express order of the purchaser;
- sold at a fundraising event; or
- packaged and displayed in an assisted service display cabinet.<sup>13</sup>

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11 Australia New Zealand Food Standards Code, Chapter 2: Standard 2.2.3 – Fish and Fish Products, <http://www.foodstandards.gov.au/code/Pages/default.aspx> (accessed 8 September 2014).

12 Food Standards Australia New Zealand, *Submission 5*, p. 5.

13 Standard 1.2.11 does not apply to a food that is offered for immediate consumption where the food is sold by restaurants, canteens, schools, caterers or self-catering institutions, prisons, hospitals, or similar institutions such as nursing homes listed in clause 8 of the standard. Food Standards Australia New Zealand, *Submission 5*, pp 5–6. Food for immediate consumption otherwise termed cooked or pre-prepared seafood is considered in Chapter 3.

2.13 Standard 1.2.11 requires unpackaged fish (including fish that has been mixed or coated with one or more other foods), fruit, vegetables, nuts, spices, herbs, fungi, legumes, seeds, pork, beef, veal, lamb, hogget, mutton and chicken (or a mix of these foods) to be labelled with a statement on, or in connection with, the display of the food:

- identifying the country or countries of origin of the food; or
- indicating that the food is a mix of local and imported foods or a mix of imported foods.

2.14 In addition to the specific requirements for food labelling in the Code, Australian consumer law (ACL) as laid out in the CC Act requires that statements made regarding food products, including in relation to the place of origin of goods, must not be false, misleading or deceptive.<sup>14</sup>

2.15 ACL provides defences, referred to as 'safe harbours', to proceedings brought under particular sections of the ACL relating to false or misleading country of origin claims about goods. The particular types of country of origin claims that the safe harbour defences cover include 'made in', 'produce of' and 'grown in'.<sup>15</sup>

### **Traceability requirements**

2.16 Traceability allows food businesses to target the product(s) affected by a food safety problem, minimising disruption to trade and any potential public health risks. The Code's Chapter 3 (Food Safety Standards) and Chapter 4 (Primary Production and Processing Standards) specify requirements for food businesses to ensure they can trace food received and sold by the business. These standards are consistent with international standards (Codex Principles For Traceability/Product Tracing As a Tool Within A Food Inspection And Certification System CAC/GL 60–2006) and operate under the principle of being able to trace food products 'one step back' and 'one step forward' in the food supply chain.<sup>16</sup>

2.17 Standard 4.2.1 – Primary Production and Processing Standard for Seafood, states that a 'seafood business must maintain sufficient written records to identify the immediate supplier and immediate recipient of seafood for the purposes of ensuring the safety of the seafood'. For example, if a business fillets fish caught by another business, the 'immediate supplier' is the business that caught the fish. The 'immediate recipient' is the business that purchased the seafood from the seafood business, that is, the 'immediate customer'.<sup>17</sup>

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14 Department of Health, *Submission 22*, p. [2].

15 Food Standards Australia New Zealand, *Submission 5*, p. 6.

16 Food Standards Australia New Zealand, *Submission 5*, p. 6.

17 Food Standards Australia New Zealand, *Submission 5*, p. 6.

2.18 The FSANZ Act also requires standards to be based in risk analysis using the best available scientific evidence, promote consistency with international standards, promote an efficient and internationally competitive food industry, and promote fair trade in food products. Standards are also required to be developed with regard to policy guidelines developed by the Legislative and Governance Forum on Food Regulation (Forum), good regulatory practice and relevant New Zealand standards.<sup>18</sup>

### **Policy guidelines for setting domestic food standards**

2.19 The Australian New Zealand Forum on Food Regulation (Forum) comprises federal Australian and New Zealand Ministers with responsibility for food along with their state and territory counterparts. The Forum is responsible to develop domestic food regulatory policy and policy guidelines for setting domestic food standards. FSANZ must have regard to ministerial policy guidelines and advice in developing food standards and other food regulatory measures, including those relating to food labelling. The Forum can also adopt, amend or reject standards and request that they be reviewed.<sup>19</sup>

### **Review of food labelling and conceptual framework**

2.20 In 2009, the Australia and New Zealand Food Regulation Ministerial Council tasked an independent panel to undertake a comprehensive review of food labelling law and policy. On 28 January 2011 the review panel, chaired by Dr Neal Blewett AC, presented its report, *Labelling Logic: Review of Food Labelling Law and Policy 2011* (Labelling Logic). The Labelling Logic review (or Blewett review) report contained 61 recommendations. The Forum agreed on a response to the recommendations in December 2011 and subsequently developed an implementation plan for actions agreed in the response.

2.21 The Forum agreed to a recommendation for the development of a conceptual framework for food labelling. The framework has guided Australia's consideration of a number of food labelling issues, including front-of-pack food labelling and the display of nutrition content and health claims on food labels.<sup>20</sup>

2.22 The framework is underpinned by a risk-based issues hierarchy for application in the development of food labelling policy. The three tiers of the issues hierarchy include:

- food safety – direct, acute and immediate threats to health. It particularly relates to poisoning and communicable diseases.

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18 Food Standards Australia New Zealand, *Submission 5*, p. 3. The Department of Health refers to the Forum as the Australian New Zealand Forum on Food Regulation. *Submission 22*, p. [1].

19 Department of Health, *Submission 22*, p. [1].

20 Department of Health, *Submission 22*, p. [3].

- preventive health – including the indirect, long-term impacts on health and particularly chronic disease; and
- consumer values issues – to reflect consumer perceptions and ethical values, including consumer sustainability and provenance preferences.<sup>21</sup>

2.23 All changes to the Code, including developing new food standards and evaluating proposed changes to existing food standards, are based on a risk analysis process and require cost-benefit analysis and public consultation.

2.24 Labelling in relation to consumer values should generally be initiated by industry in response to consumer demand, with the possibility of some specific methods or processes of production being referenced in regulation, where this is justified. Usually, any regulatory action would be under consumer protection law rather than food regulation.<sup>22</sup>

2.25 As the Code is focused on food safety matters, it does not require a declaration in relation to the sustainability of food. However, this does not prevent food businesses from voluntarily promoting the sustainability, production methods or origin of seafood where the Code is silent.<sup>23</sup>

### **Australian Fish Names Standard**

2.26 As the Code does not define names for fish, the seafood industry worked with Standards Australia to develop an Australian Fish Names Standard (AFNS). The AFNS (AS SSA 5300) is a voluntary standard which provides guidance on standard fish names to be used in Australia. The Code refers to the AFNS but it does not mandate compliance with the standard.<sup>24</sup>

2.27 Introduced in 2007, the AFNS requires retailers to display the Approved Fish Names logo and label seafood with the Australian approved fish name.<sup>25</sup> According to the Australian Fisheries Research Development Corporation (FRDC), the AFNS draws extensively from international references derived from the United Nations Food and Agriculture Organisation (FAO) guidance for fish species to identify fish species and names for application in Australia.<sup>26</sup>

2.28 The AFNS is the subject of further consideration in Chapter 4.

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21 Department of Health, *Submission 22*, p. [2].

22 Department of Health, *Submission 22*, p. [3].

23 NSW Food Authority, *Submission 19*, pp 2–3.

24 Department of Agriculture, *Submission 11*, p. 5.

25 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 6.

26 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 6.

## Chapter 3

### Labelling cooked or pre-prepared seafood

3.1 This chapter considers labelling requirements in relation to cooked or pre-prepared seafood with particular focus on the arrangements for labelling in the Northern Territory. It also explores the arguments for and against removing the country of origin labelling exemption on cooked or pre-prepared seafood under the Australia New Zealand Food Standards Code.

#### Labelling cooked or pre-prepared seafood

3.2 Since June 2006, it has been a legal requirement that all fresh seafood sold by retailers to the Australian public must be clearly labelled with country of origin.<sup>1</sup> However, these regulations excluded or exempted cooked or pre-prepared seafood sold in the food services industry (restaurants, cafes, pubs, bars, clubs, fast food and takeaway outlets including fish and chip shops) where the majority of seafood is sold to the Australian public.<sup>2</sup> Therefore seafood sold by food services for immediate consumption is exempted from being labelling as 'imported' or with country of origin in all states and territories except the Northern Territory (NT).<sup>3</sup> In the NT, a licence condition requires imported seafood prepared for immediate consumption to be labelled as 'imported'. The NT scheme is discussed later in this chapter.

3.3 The majority of submitters to the inquiry argued that the labelling exemption on cooked or pre-prepared seafood created a void in the information provided to the consumer.<sup>4</sup> The effect of the exemption is that consumers are denied the opportunity to make informed choices at the point of sale, while the industry is unable to distinguish its product from (often cheaper) imports. Generalised headings on menus such as 'fish of the day' do not provide any clear indication of where the fish is from and 'would lead a customer to believe that it was locally caught when it may in fact be an imported species'.<sup>5</sup>

3.4 A number of witnesses explained the ramifications of the labelling exemption on the competitiveness of the local fishing industry and efforts to ensure that seafood

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1 National Seafood Industry Alliance, *Submission 10*, p. 7.

2 Northern Territory Seafood Council, *Submission 12*, p. 2. Seafood consumption has continued to rise in Australia along with out-of-home consumption. According to NSIA, between 1985–86 and 2005–06, per capita real household final consumption expenditure on catering rose by 30 per cent or 1.3 per cent per year on average (from \$1,297 to \$1,679). National Seafood Industry Alliance, *Submission 10*, p. 2.

3 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 3.

4 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10; Australian Barramundi Farmers Association, *Submission 2*, p. 1; National Seafood Industry Alliance, *Submission 10*, p. 5; Master Fish Merchants Association of Australia, *Submission 8*, p. 5; Sydney Fish Market, *Submission 9*, p. 3; Southern Shark Industry Alliance Inc. and Traffic International, *Submission 13*, p. 4; Australian Prawn Farmers Association, *Submission 3*, p. 1.

5 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

is derived from sustainable and legal fisheries. A case in point is that of 'flake' which refers to shark flesh sold in Australian fish and chip shops. According to the Southern Shark Industry Alliance (SSIA) and Traffic International, the term 'flake' is used to cover any shark sold in southern Australia, including imports from unsustainable shark fisheries and shark species on the International Union for Conservation of Nature red list.<sup>6</sup> Therefore, some fish and chip shops are selling shark products potentially derived from threatened shark species or from unsustainable and/or illegal shark fisheries. The sale of these species is in direct competition with that of Australian gummy shark sourced from fisheries which apply strict management practices and meet Commonwealth legislative and regulatory requirements including the *Environment Protection and Biodiversity Conservation Act 1999* strategic assessment.<sup>7</sup>

3.5 The committee heard that the barramundi sector's inability to use labelling to differentiate this iconic Australian species from imports has the potential to damage the reputation of the local industry and its future viability. It may also erode consumer trust in the food services sector overall, and in particular, the tourism industry.<sup>8</sup> Within this context, barramundi farmer, Mr Robert Richards warned of the consequences of a 'tsunami of barramundi' expected to hit the Australian market in the next twelve months from countries including Saudi Arabia, Vietnam and Indonesia.<sup>9</sup>

3.6 Concerns regarding the potential influx of imported barramundi and its potential impact on the local industry were made more serious when considered alongside 'free riding'. Free riding applies when seafood is advertised in a way that suggests it is Australian product. While such advertisements will indicate that their product is imported (albeit often very subtly), the overall impression deliberately created is that product is Australian. One example in point is that of 'Australis Barramundi' which produces barramundi in Vietnam that is sold by Coles and Woolworths. The point was made that such importers are riding in the back of Australia's image (as sustainable, healthy and fresh) while benefiting from the price differential between imported and local product.<sup>10</sup>

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6 The IUCN red list is the world's most comprehensive information source on the global conservation status of wild species and their links to livelihoods. IUCN, About IUCN, [http://www.iucn.org/about/work/programmes/species/our\\_work/the\\_iucn\\_red\\_list/](http://www.iucn.org/about/work/programmes/species/our_work/the_iucn_red_list/) (accessed 18 November 2014).

7 Southern Shark Industry Alliance and Traffic International, *Submission 13*, p. 1.

8 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12.

9 Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, pp 16–20.

10 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 42.

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## Northern Territory's licence condition

3.7 In November 2008, the NT became the first jurisdiction to introduce seafood labelling requirements on restaurants and other dining venues (cafes, bistros, hotels, motels, fish and chip shops as well as delicatessens in supermarkets). A licence condition under the NT *Fisheries Act 1979* requires the NT services sector to label all seafood for public consumption (cooked and raw seafood) harvested outside of Australia and to advertise its sale on menus, menu boards, brochures, pamphlets and related material as imported.<sup>11</sup>

3.8 The intention of the labelling requirement was to enable consumers to make informed seafood choices. According to the Northern Territory Department of Primary Industry and Fisheries (DPIF), the provision was introduced in response to representations from the NT seafood industry and consumer complaints regarding fish served in Darwin, particularly in tourism areas where consumers expect local produce. Underpinning the representations made to the NT government was concern that imported fish was being passed off as local.<sup>12</sup> Ongoing complaints regarding mislabelling, as well as allegations that consumers were misled by the term 'locally caught' in places where it would be rare to find locally caught seafood, also triggered the reform.<sup>13</sup>

3.9 Where mixed seafood dishes are advertised for sale, if any of the seafood products were not harvested in Australia, they must be identified as 'contains imported seafood products'. The statement regarding the imported product must be no less than 65 per cent of the height of the characters used in the title of the fish, aquatic life or mixed seafood product that is advertised for sale.<sup>14</sup>

3.10 Mr Ian Curnow, Deputy Chief Executive of the NT DPIF clarified that the NT approach was to make labelling requirements simple to understand for both retailers and consumers, as well as cost-effective to implement. The provision is based on the premise that by default, unlabelled seafood is Australian product. Mr Curnow explained that this approach reflected the expectations of consumers that they were purchasing locally caught fish.<sup>15</sup>

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11 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37; Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

12 Mr Des Crowe, Australian Hotels Association, *Committee Hansard*, 13 November 2014, p. 7.

13 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

14 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

15 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

### ***Consumer response to NT labelling requirement***

3.11 According to the Common Language Group (CLG), the initial reaction of consumers in the NT to the introduction of the licence agreement was one of shock when it was made known that most of the barramundi sold in the territory was not local, but rather imported product.<sup>16</sup> The point was made that, while the species is found in the tropics, the name 'barramundi' is a distinctly Australian name which importers have adopted.<sup>17</sup>

3.12 Evidence to the committee suggested that since the introduction of the labelling requirements in relation to the food services sector in the NT, consumers have become aware of the distinction between Australian and imported seafood products. This has permitted restaurants to charge a little more for local seafood.<sup>18</sup> Far from favouring the cheaper, imported seafood, surveys have revealed that consumers in the NT have a preference for local seafood and are prepared to pay a premium for it. After freshness, supporting local industry and origin labelling were the key factors in consumer decisions.<sup>19</sup>

### ***Food services sector response to NT labelling requirement***

3.13 There are approximately 350 fish retail licensees in the NT of which up to 90 per cent are located in Darwin.<sup>20</sup> According to the DPIF, 90 per cent of fish retailers were compliant with the labelling requirement within three months of its introduction. Surveys of retail establishments found that costs of compliance were between \$100 and \$500 per annum, with ongoing menu changes the most substantive cost.<sup>21</sup> In terms of the costs of the initial transition to meet the labelling requirements, the Australian Hotels Association informed the committee that a survey of approximately 20 NT restaurants revealed that one-off transition costs ranged from \$500 to \$5000.<sup>22</sup>

3.14 A survey conducted by FRDC found that there was not only a high level of consumer support for the NT seafood labelling initiative but that it was also generally supported by the food services sector.<sup>23</sup> Evidence provided by NT fish and chip shop, restaurant and bar proprietors suggested that while there was initial antagonism

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16 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 19.

17 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 5.

18 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

19 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

20 Ms Leonie Cooper, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 40.

21 Mr Ian Curnow, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 37.

22 Mr Des Crowe, Australian Hotels Association, *Committee Hansard*, 13 November 2014, p. 7.

23 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.



amongst some restaurant and take away owners at the prospect of additional compliance responsibilities, such concerns fell away when they realised that labelling provided an opportunity to actively market seafood on their menus.<sup>24</sup> One such proprietor, Mr Jason Hanna explained his reaction to the NT licence condition:

I can tell you that our initial reaction, like most, would have just been that it was one more damn regulation we had to follow. As a person who wrote menus, and I was writing multiple menus for multiple venues, I was not able to see past the fact that I was being told to do something that I would have preferred not to have done. How do I make it look attractive on my menu with these horrible little words in brackets next to my description?

We got over it fairly quickly when the customers started to ask these questions. They wanted to know where their product came from, they wanted to know if it was local or if it was imported and they would show worse – with where they spent their money – as to what it was what they wanted. There are some people who will always be price oriented and there are cheaper local products.<sup>25</sup>

3.15 Similarly, another proprietor, Mr Simon Matthews, noted that a consumer being able to understand why they were paying a little more for Australian seafood was actually a bonus for his business. Mr Matthews, whose restaurant has utilised the labelling requirement as an opportunity to promote NT seafood, explained the impact of the licence condition:

We have a lot of international tourists and national tourists come to our venue and they are specifically looking for seafood from the Territory. It is eating tourism. People are flying to the Territory because of the best pristine conditions we have up here. It is the same with Tasmania, South Australia and Western Australia. They have their niche markets for certain seafoods and we have it here. I think it has been a great tool to help promote what we use up here and what we have and sometimes for justifying why we have to charge a little bit more for what we have.<sup>26</sup>

3.16 APFA, ABFA and others argued that it was now time for the labelling measure to be uniformly applied across all states and territories.<sup>27</sup> However, FRDC cautioned that while the NT provided a good case study in a defined single market with a limited number of outlets, a regulatory impact assessment and benefit cost

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24 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 1; Mr Des Crowe, Australian Hotels Association NT Branch, *Committee Hansard*, 13 November 2014, p. 1; Mrs Suzanne Morgan, Tourism NT, *Committee Hansard*, 13 November 2014, p. 29.

25 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 2.

26 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 3.

27 Australian Prawn Farmers Association, *Submission 3*, p. 1; Australian Barramundi Farmers Association, *Submission 2*, p. 3.

analysis should be undertaken to fully understand the implications of extending the regulation across Australia.<sup>28</sup>

### ***Limitations of the NT licence condition***

3.17 While the benefits of the NT licence condition were widely acknowledged, some suggested that it was limited in two key areas. First, that labelling is required only for imports and not Australian product.<sup>29</sup> Greenpeace Australia (Greenpeace) and other submitters argued that this was an omission which created confusion as the consumer is not sure why information on the menu is 'missing' in some instances.<sup>30</sup> Put another way, the NTSC made the point that it can be confusing for imported product to be labelled on menus as 'I' (or 'i') while local product is not labelled.<sup>31</sup>

3.18 In response to these concerns, the NT DPIF explained that once labels such as 'Australian' or 'Australian made' are introduced, the *Trade Practices Act 1974* is triggered. In the NT experience, as emphasis was placed on keeping the regulation as simple as possible to ensure sectoral compliance, going the extra step by triggering the Trade Practices Act would potentially have undermined this objective.<sup>32</sup>

3.19 The second concern with regard to the NT licence condition was that it does not identify the country of origin of the seafood for sale.<sup>33</sup> Some submitters argued that this provision did not provide adequate information for consumers to make informed choices based on quality and sustainability. Mr Nathaniel Pelle, Oceans Campaigner from Greenpeace explained that it was not as simple as arguing that a product from Australia was sustainable and that everything outside of Australia was fished unsustainably. He pointed out that a farmed product from Norway might have been produced under completely different conditions to seafood from Malaysia or China. For this reason, Mr Pelle suggested that simply labelling a product 'imported' or 'Australian' was inadequate information for a consumer to make an informed decision about the quality of the product.<sup>34</sup>

3.20 Similarly, NT restaurant proprietor Mr Joseph Rotumah noted that any new labelling requirement should reveal the product's origins because in countries such as

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28 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

29 Mr Mathew Evans, *Submission 16*, p. [7]; Greenpeace Australia, *Submission 6*, p. 10; Australian Marine Conservation Society, *Submission 15*, p. 5; WWF-Australia, *Submission 21*, p. 6.

30 Mr Mathew Evans, *Submission 16*, p. [7].

31 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 45.

32 Ms Leonie Cooper, Northern Territory Department of Primary Industry and Fisheries, *Committee Hansard*, 29 September 2014, p. 39.

33 Mr Mathew Evans, *Submission 16*, p. [7]; Greenpeace Australia, *Submission 6*, p. 10; Australian Marine Conservation Society, *Submission 15*, p. 5; WWF-Australia, *Submission 21*, p. 6.

34 Mr Nathaniel Pelle, Greenpeace Australia Pacific, *Committee Hansard*, 29 September 2014, p. 24.

Japan, high quality and sustainable seafood is produced. For these reasons, Mr Rotumah advocated for country-of-origin labelling (CoOL) rather than a binary provision which distinguished a product as 'Australian' or 'imported'.<sup>35</sup> Similarly, the NTSC along with Greenpeace, WWF-Australia and the AMCS argued that consumers should be able to read a menu which indicates the origins of seafood products.<sup>36</sup>

3.21 Rather than introduce a provision similar to that of the NT licence agreement across the country, such submitters argued in favour of CoOL to enable identification of the producer country.

### Country of origin labelling

3.22 A considerable number of witnesses to the inquiry argued in favour of removing the current CoOL exemption under Standard 1.2.11 of the Code to include services sector outlets and thereby require labelling of seafood sold for immediate consumption.<sup>37</sup> The case was put that removal of the exemption would provide for consistent labelling from the point at which the fish is caught all the way to the plate. For example, Mr Mathew Evans, former chef and food critic, made the point that consistent and reliable labelling should apply to all seafood, local and imported, wild and farmed, fresh and frozen, uncooked and sold through food service.<sup>38</sup>

3.23 The case in favour of amending CoOL requirements under the Code to include seafood sold for immediate consumption in the food services sector was made on the following grounds:

- omission of the food services sector under the Code denies consumers adequate information to make informed purchasing decisions. The lack of labelling provides scope for misleading statements or claims as to country of origin as well as substitution of overseas product for more costly and sought-after Australian product (such as tiger prawns) which denies the consumer value for money;<sup>39</sup>

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35 Mr Joseph Rotumah, Owner of Pulp Kitchen and Hungry Joes, *Committee Hansard*, 13 November 2014, p. 9.

36 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 45; Greenpeace Australia, *Submission 6*, p. 10; Australian Marine Conservation Society, *Submission 15*, p. 5; WWF-Australia, *Submission 21*, p. 6; Mr Mathew Evans, *Submission 16*, p. [7].

37 Australian Barramundi Farmers Association, *Submission 2*, p. 1; Australian Prawn Farmers Association, *Submission 3*, p. 1; National Seafood Industry Alliance, *Submission 10*, p. 2; Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 18; Greenpeace Australia Pacific, *Submission 6*, p. [11]; Mr Mathew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 29; Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 29.

38 Mr Mathew Evans, *Submission 16*, p. [7].

39 Ms Helen Jenkins, Australian Prawn Farmers Association, *Committee Hansard*, 29 September 2014, p. 11; Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 3.

- extending CoOL to encompass all retailed seafood is a matter of public health importance given concerns regarding biosecurity and the potential health hazards involved in fish sourced from outside of Australia, particularly the possible use of chemicals such as antibiotics and pesticides;<sup>40</sup>
- CoOL would provide a level playing field for both local and overseas producers and bring surety to the local industry;<sup>41</sup>
- Australian producers are unable to distinguish their product from imported product and yet the high standards local producers apply with regard to sustainability, safety and hygiene places an additional cost on the Australian industry.<sup>42</sup>

3.24 The following section considers these arguments in greater detail.

### ***Informing consumers and public health factors***

3.25 The majority of submitters to the inquiry highlighted the importance of providing consumers with diversity of choice and factual information with regard to seafood options.<sup>43</sup> The Australian Barramundi Farmers Association (ABFA) emphasised that as country of origin is second only to freshness in guiding consumer choices, it was unacceptable that a cheaper product could dominate the higher value end of the market due to lack of consumer knowledge.<sup>44</sup>

3.26 Proprietors of restaurants, bars and fish and chip shops in the NT who gave evidence to the committee upheld the view that consumers have a right to know what they are eating and why they may be paying more for local seafood.<sup>45</sup> The point was made that labelling seafood not only informs consumers but also builds trust as consumers know what they are getting for the price they pay.<sup>46</sup> The Australian Prawn Farmers Association (APFA) and ABFA raised concern that if consumers are unable to identify the origins of their seafood and establish whether it complies with strict hygiene regulations, they will cease to purchase seafood.<sup>47</sup> To this extent, therefore,

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40 Australian Prawn Farmers Association, *Submission 3*, p. 2.

41 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 3; Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 29.

42 National Seafood Industry Alliance, *Submission 10*, p. 6.

43 Mrs Suzanne Morgan, Tourism NT, *Committee Hansard*, 13 November 2014, p. 23.

44 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

45 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 6.

46 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 6.

47 Australian Prawn Farmers Association, *Submission 3*, p. 2; Australian Barramundi Farmers Association, *Submission 2*, p. 2.

labelling enables and encourages product integrity.<sup>48</sup> Mr Chris Calogeras, Executive Officer of ABFA continued:

We find that the failure to differentiate can lead to questions about the integrity of local production and the food service industry in general. It has the capacity to damage the local industry reputation and negatively impact on consumer trust in the food service sector overall and, importantly, our tourism industry.<sup>49</sup>

3.27 National Seafood Industry Alliance (NSIA) argued that as CoOL was recognised as a consumer value issue, a specific section in *Competition and Consumer Act 2010* should be introduced to deal solely with CoOL claims with regard to food.<sup>50</sup>

3.28 However, the Queensland Government argued that CoOL for seafood was not considered to be a public health and safety issue. It argued that as an alternative, an industry-initiated self-regulated model, such as a voluntary code of practice, could be developed to address consumer values and preferences regarding the provenance of seafood including CoOL for seafood in restaurants and clubs.<sup>51</sup>

3.29 The Queensland Government further noted that Australian consumer law includes prohibitions on making false or misleading representations and misleading or deceptive conduct concerning the place of origin of foods. While it does not contain any mandatory requirements for suppliers to declare the origin of their products, such law does provide 'safe harbour' provisions requiring suppliers to satisfy certain requirements where they have chosen to make a CoOL claim, in order to avoid breaching the prohibitions in consumer law.<sup>52</sup> The NSW Food Authority made the point that retail establishments (or exempted businesses) would still be able to supply country of origin information to consumers upon request by simply checking the packaging of the product or any accompanying documentation, or by requesting it from the supplier. This is because such outlets would have been supplied with CoOL information when purchasing the seafood and can therefore provide that information upon customer request.<sup>53</sup> It further pointed out that truth in labelling provisions apply to any description added to seafood to protect consumers from any false or misleading claims.<sup>54</sup>

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48 Mrs Suzanne Morgan, Tourism NT, *Committee Hansard*, 13 November 2014, p. 26.

49 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12.

50 National Seafood Industry Alliance, *Submission 10*, p. 7.

51 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [1].

52 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [1].

53 NSW Food Authority, *Submission 19*, pp 3 & 6.

54 NSW Food Authority, *Submission 19*, pp 6–7.

### ***Level playing field and impact on the local industry***

3.30 A number of witnesses made the point that the introduction of CoOL requirements on the food services sector would provide a level playing field for both local and imported product. Mr Michael Kitchener, Executive Officer from MFMA argued:

If the shop down the road is selling imported product that is much cheaper but the same species, with country-of-origin labelling everyone knows where they stand.<sup>55</sup>

3.31 Mr William Passey, a joint owner of Australia Bay Seafood, the largest snapper producer in Australia, made the point that as local seafood is more expensive to produce when compared to most imported products, without the ability to distinguish their product alongside imports, it is difficult for locals to compete. At the same time, however, cheaper imports can also be heavily marked up, particularly when Australian consumers generally assume that they are purchasing Australian product.<sup>56</sup> Mr Chris Calogeras, Executive Officer of the ABFA explained the situation for the local barramundi sector:

The current situation denies consumers choice, impacts on Australian jobs and contributes to the ongoing attrition of Australian business involved in food production. We feel that requiring product to be differentiated in the market will achieve the best of both worlds. It will allow Australian industry to get a premium price for their local product from imported consumers and it will also allow access to lower priced imports, if that is what people choose.<sup>57</sup>

3.32 Barramundi producer, Mr Robert Richards emphasised the inextricable relationship between informing consumers and the future of the local fishing industry:

We have two scenarios: one is obfuscation and denying the public the opportunity to be able to make informed choices, which will be disastrous for the industry; and the other is giving consumers what they are entitled to know, which is the information at the point of sale.<sup>58</sup>

3.33 According to the Sydney Fish Market, an equal playing field would not be difficult to realise as CoOL is mandated up to the back door of a restaurant and to take that information from the back door to the menu should not be onerous.<sup>59</sup>

3.34 Mr Matthew Evans suggested that the extension of CoOL to the services industry would not only provide an opportunity to market Australian product and

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55 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 3.

56 Mr William Passey, Australia Bay Seafood, *Committee Hansard*, 13 November 2014, p. 20.

57 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 13.

58 Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, p. 16.

59 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 5.

thereby provide some rationale for charging a premium, but also increase demand for Australian product, thereby providing opportunities to increase production and expansion of local businesses.<sup>60</sup> As a case in point, prior to the introduction of the labelling requirement under the Code for fresh fish, local producers were unable to compete with cheaper imported prawns sold in supermarkets at \$15.99 per kilogram. However, now local prawns sold at \$27 per kilogram and advertised as 'Australian' can compete with the labelled imported products because of CoOL labelling.<sup>61</sup>

3.35 According to the NTSC, since the introduction of CoOL in supermarkets, the trawl fishery industry turnover increased from \$4 million to over \$30 million while production rose from 500 tonnes to 3000 tonnes.<sup>62</sup> Similarly, Mr Passey informed the committee that since the introduction of CoOL for fresh fish, sales for snapper increased by 400 per cent.<sup>63</sup> As a result of the mandatory labelling requirement coupled with demand for Australian produce, Australian-produced Atlantic salmon and Red snapper species are now the largest selling fish in the two major supermarkets.<sup>64</sup> In contrast, Mr Passey suggested that without CoOL for fresh fish, Australia would be importing 100 per cent of its fish rather than the current 70 per cent.<sup>65</sup>

3.36 Evidence to the committee suggested that where local barramundi was advertised as 'Australian' and sold in supermarkets alongside labelled imported product, consumers are prepared to pay the \$20 premium for Australian product.<sup>66</sup> Mr Robert Fish, Chairman of the NTSC summarised the impact of fresh fish CoOL on the local industry:

By getting the labelling in, we can compete and we can invest back into our businesses where we couldn't before...To get to that position there has to be a premium on Australian fish. There has to be a reason for it, and there are a whole lot of reasons for it—that it is sustainable, healthy and safety is okay, how people work on the boats. There is a range of reasons why people choose Australian fish first.<sup>67</sup>

3.37 The committee received evidence that labelling under the licence condition in relation to the NT services sector has had a similar impact. According to Mr Andrew

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60 Mr Matthew Evans, personal capacity, *Committee Hansard*, 29 September 2014, p. 35.

61 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 41.

62 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 43.

63 Mr William Passey, Australia Bay Seafood, *Committee Hansard*, 13 November 2014, p. 17.

64 Northern Territory Seafood Council, *Submission 12*, p. 2.

65 Mr William Passey, Australia Bay Seafood, *Committee Hansard*, 13 November 2014, p. 17.

66 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 13.

67 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 41.

Hirsch, former proprietor of the Barra Bar, customers at the bar are offered a choice between local fish for \$12 and cheaper imported fish for \$9. He explained that an estimated 80 per cent of the fish sold at the establishment was local.<sup>68</sup>

3.38 The committee received evidence from a number of witnesses who expressed the view that removing the CoOL exemption on the services sector would boost consumption of local seafood and thereby enable local producers to expand.<sup>69</sup> Opportunities in the barramundi sector were particularly highlighted. Currently, the local barramundi (or *Lates calcarifer*) sector produces up to approximately 6000 tonnes whole weight, deriving up to \$60 million annually at the farm gate. According to research, approximately 20,000 tonnes of barramundi in whole weight fish is consumed in Australia each year with Australian product amounting to about 40 per cent (comprising about 30 per cent farmed and seven per cent wild caught barramundi) with the balance imported.<sup>70</sup>

3.39 Mr Calogeras from ABFA argued that if labelling were introduced, it would provide the opportunity for new barramundi farms to be established in Australia, creating hundreds of jobs to meet demand for Australian product.<sup>71</sup> Mr Robert Fish, Chairman of the Northern Territory Seafood Council (NTSC) explained that prior to the introduction of the licence agreement in the NT, nearly all barramundi was imported and local operations had difficulties trying sell their 500 tonnes into markets already swamped with imported fish sold at half the price. At that time, Australian producers were forced to rely on the high-end restaurant market.<sup>72</sup>

3.40 The committee was also informed that in the farmed prawn sector, a level playing field brought about by CoOL would provide the basis for greater investment in prawn farms and jobs growth. According to Ms Helen Jenkins, Executive Officer of the APFA, estimates suggest that if planned farms are established, the sector could expect to grow by seventeen times, with employment increasing from the current 300 positions to an estimated 5000.<sup>73</sup>

3.41 Evidence also suggested that by having a positive impact on local production, demand of other species fished in Australia might also grow. The NTSC made the

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68 Mr Andrew Hirsch, The Barra Bar, *Committee Hansard*, 13 November 2014, p. 31.

69 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12; Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, p. 21; Mr William Passey, Australia Bay Seafoods, *Committee Hansard*, 21 November 2014, p. 21.

70 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 12.

71 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 14.

72 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 43.

73 Ms Helen Jenkins, Australian Prawn Farmers Association, *Committee Hansard*, 29 September 2014, p. 15.



point that along the east coast of Australia, fishers do not fish for some species anymore because those species cannot compete with other cheap (and imported) species.<sup>74</sup>

### ***Well managed fisheries***

3.42 NSIA and others argued that as many countries do not meet the FAO standards for fisheries and aquaculture management, their costs of production are considerably less than that of Australia's well managed and regulated industry which is unable to compete with these low cost management regimes.<sup>75</sup>

3.43 The argument was put that Australian consumers have a right to ensure that their seafood comes from fisheries or aquaculture ventures that comply with standards similar to those in Australia. According to NSIA, this cannot be achieved without the extension of CoOL to seafood sold for immediate consumption.<sup>76</sup>

3.44 Nonetheless, the SIAA and NSW Food Authority submitted that there was no evidence that imported seafood is less safe, of inferior quality or less nutritious than locally produced seafood.<sup>77</sup>

### ***Compliance and enforcement***

3.45 The point was repeatedly made that while fishing industry is required by regulation to document the details of a catch, such information is lost at the restaurant backdoor under the current exemption. Therefore, far from requiring the establishment of an entirely new system, removing the CoOL exemption would simply require already captured information to be passed on at the restaurant door.

3.46 Mr Passey noted that the CoOL exemption was tantamount to putting catch information into the rubbish bin and then not telling consumers what they are eating.<sup>78</sup> He further explained that:

We are large producers and we bear a lot of costs. A lot of that cost is so that we can put together the information that is required by regulation. With the fishes, we have the date that it was caught, the skipper that caught it, whether there are any environmental interactions with it, the type of net we used, the depth of the water and the latitude and longitude it was caught in. All of this information is put together and paid for. We pay the fisheries department to collate all of that together. This is all done because it is what the regulation is and we want to put our industry in a good state and get

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74 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 43.

75 National Seafood Industry Alliance, *Submission 10*, p. 6; Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 6.

76 National Seafood Industry Alliance, *Submission 10*, p. 10

77 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [4]; NSW Food Authority, *Submission 19*, p. 8.

78 Mr William Passey, Australia Bay Seafoods, *Committee Hansard*, 13 November 2014, p. 15.

what I see as a social licence to operate in a business. I think you have got to do the right thing by the public to be able to keep going...

We do all of that and then we put fishes in trucks and send them thousands of kilometres around Australia. We supply basically every Coles and Woolies shop in Australia. It is a big network with a lot of trucking and a lot of fish...It is hundreds of thousands of dollars in our industry to put that information together and to put those fish to the back door of the restaurant. After all of those thousands of damn kilometres to get those fish to the markets, the last 10 metres before it goes to the consumer – the last link in the chain – is where that person is given an exemption. For what reason, I do not know. That person is saying it is because the chalk costs him too much!<sup>79</sup>

3.47 Similarly, Mr Bryan Skepper, General Manager of the Sydney Fish Market made the point that:

A restaurant, when it is buying the product in, will know the country of origin, because it is mandated that country of origin is up to the back door of the restaurant. To take that information from the back door of the restaurant to the menu should not be that difficult.<sup>80</sup>

3.48 APFA argued that the simple addition of a few words to restaurant and outlet menus and chalk boards was not a prohibitive cost.<sup>81</sup> Mr Mure, whose Tasmanian fish and chip shop provides country of origin labelling, informed the committee that the outlay for labelling were one-off costs relating to setting up a menu:

The downstairs fish and chips is all printed material, so we actually have magnetic labels that come off and on depending on what product we are selling. So if it is blue grenadier product of Australia, then it goes up. If it is blue grenadier product of New Zealand then that label grows up. So we change them around. It is just the one-off cost of setting up your menu properly. We have not flowed that through to the upper deck yet. That is next on our list of things to do—that we will make sure that our menus are printed with the country-of-origin product.<sup>82</sup>

3.49 ABFA also noted that while the compliance costs in relation to the seafood labelling laws were not significant, if there were concerns, a staged approach could be taken to align with normal business practices to replace and update menus and information boards.<sup>83</sup> Similarly, Mr Robert Richards, a barramundi farmer from Humpty Doo Barramundi supported a phasing-in process to allow time for adjustment of menus and restructure of business practices.<sup>84</sup>

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79 Mr William Passey, private capacity, *Committee Hansard*, 13 November 2014, p. 15.

80 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 October 2014, p.

81 Australian Prawn Farmers Association, *Submission 3*, p. 2.

82 Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 33.

83 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

84 Mr Robert Richards, Humpty Doo Barramundi, *Committee Hansard*, 13 November 2014, p. 16.

3.50 In terms of compliance and enforcement across all states, NSIA maintained that once consumers were aware of the labelling requirement, compliance would be highly self-regulating with support from local food inspectors.<sup>85</sup> Similarly, APFA argued that the extension of CoOL could simply involve the addition of an inspection of restaurant and cooked seafood outlet menus to the checklist of health and safety regulators already inspecting retail establishments.<sup>86</sup> APFA further argued that Physi-Trace testing technology could be applied to establish the provenance of Australian and overseas prawns and any farmed fish species.<sup>87</sup>

3.51 The Queensland Government argued against mandatory CoOL labelling for seafood sold in restaurants on the grounds that it would 'significantly increase red tape and costs for many businesses, and is not supported'.<sup>88</sup> Similarly, the Department of Agriculture (department) noted that extending mandatory origin labelling to seafood sold in the food service sector in Australia would add regulatory burden and cost. It further maintained that such a requirement would cause regulatory inconsistency because no other food served in the service sector is required to have country of origin labelling.<sup>89</sup> It drew on the Blewett Review which argued against extending CoOL to restaurants on the grounds that such a measure would 'constitute an exemption to the general exemption of restaurants from mandatory labelling requirements'.<sup>90</sup> The department further noted that any changes to labelling laws for seafood would need to be considered alongside a rigorous cost and benefits analysis.<sup>91</sup>

3.52 The Queensland Government also made note that there are a relatively fewer seafood producers, and a comparatively small number of eating establishments in the NT when compared to many other jurisdictions. For these reasons, the Queensland Government concluded that:

The system in place in the NT is not considered appropriate in jurisdictions such as Queensland, with different geography and supply chain characteristics, and by comparison a very large number of eating establishments selling seafood.<sup>92</sup>

3.53 Similarly, SIAA argued that the survey conducted in the NT to examine the impact of the licence condition could not be used to advance the argument for CoOL nationwide and that its findings could not be extrapolated to other states and

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85 National Seafood Industry Alliance, *Submission 10*, p. 9.

86 Australian Prawn Farmers Association, *Submission 3*, p. 5.

87 Australian Prawn Farmers Association, *Submission 3*, p. 5.

88 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [1].

89 Department of Agriculture, *Submission 11*, p. 5.

90 Dr Neal Blewett AC et al, *Labelling Logic: Review of Food Labelling Law and Policy*, 2011, p. 108.

91 Department of Agriculture, *Submission 11*, p. 5.

92 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [2].

territories.<sup>93</sup> It argued that the main hypothesis that consumers would purchase more Australian seafood if the origins of seafood product was on the menu is flawed because of the insufficient supply in Australia to fill any additional demand created, let alone the price:

Three quarters of Australia's seafood is imported, by necessity, to fill the chronic gap in supply; and two thirds of Australians cannot afford to eat fresh Australian seafood regularly, and one third of Australians cannot afford to eat frozen Australian seafood regularly.<sup>94</sup>

3.54 SIAA suggested that the idea that the cost of extending CoOL across Australia is limited to changing a blackboard menu should be considered in the context of city venues where ten thousand meals or more may be served at one event. Such costs would include:

- regular changes to advertising, electronic signage and printing menus (especially when seafood from several origins is used in one day or one sitting);
- retained supply chain audit rails to verify CoOL after the event;
- identifying the scope (e.g. whether school tuckshops would be required to identify on menus the origin of mixed ingredients in tuna sandwiches, seafood salads or spring rolls); and
- uneven enforcement of the regulation in the future.<sup>95</sup>

3.55 SIAA concluded that the most likely consequence of such a change is increased prices to consumers and cutting of seafood lines by many food service outlets to avoid liability.<sup>96</sup>

3.56 The NSW Food Authority made the point that the NT produces iconic seafood species including single-species of barramundi and mud crabs while other states, in particular NSW, produce a diverse range of many different species of seafood, many of which do not entail demands for protection. It argued that for this reason, mandating CoOL at restaurants may add burden to industry without any benefit at retail level.<sup>97</sup> Furthermore, the point was also made that expanding CoOL to include the services industry would require amendment to the food standards and thereby, the agreement of the states and territories and the provision of cost-benefit analysis.<sup>98</sup>

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93 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [2].

94 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [3].

95 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [3].

96 Seafood Importers Association of Australasia Inc., *Submission 1*, p. [3].

97 NSW Food Authority, *Submission 19*, p. 6.

98 Mr Steve McCutcheon, FSANZ, *Committee Hansard*, 29 September 2014, p. 70.

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## Committee view

3.57 The majority of submissions emphasised the relationship between Australia, local seafood, tourism and dining. The point was repeatedly made by many submitters that eating fresh, local seafood was a key selling point for the tourism industry.<sup>99</sup>

3.58 Evidence to the committee highlighted that food sold at the food service level does not require labelling as 'imported' or with country of origin while packaged food must be labelled with country of origin and unpackaged food must be labelled imported or with country of origin at the retail level.<sup>100</sup> The point was made that removing the exemption on the food service sector would provide consistency from the initial catch to the plate.

3.59 It was put to the committee that the increased need for country of origin in seafood is predicated on a strong consumer preference for local seafood, and the need to ensure the Australian industry is not priced out of the market by products not clearly labelled as imported.<sup>101</sup> The lower cost of imported seafood ensures that there is no incentive for venues to voluntarily identify imported product.

3.60 The committee does not uphold the view put to it that the NT is distinctly different to the rest of Australia and that its licence condition cannot therefore be considered a demonstration to the rest of the country of the benefits of labelling. On the contrary, the evidence before the committee repeatedly demonstrated that seafood labelling would be beneficial to consumers, the local fishing industry and the national economy.

3.61 The committee holds the view that mandating country of origin labelling in relation to fish products sold in restaurants and other cooked seafood outlets comprises an effective, simple and cost-effective means of achieving a level playing field for Australian and overseas seafood producers. To this end, the committee recommends the immediate removal of the exemption under Standard 1.2.11 of the Code.

3.62 The committee also accepts that the best approach in relation to the introduction of such a mandatory scheme is to provide for a transitional period or phase-in period of no more than twelve months before full compliance with the mandated extension of seafood CoOL would be enforced. While evidence to the committee suggested that the compliance costs would not be onerous, a transitional period would provide an opportunity for an education and awareness raising campaign amongst both the industry and consumer population while assisting the services industry to make the necessary adjustments to their businesses.

## Recommendation 1

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99 Australian Barramundi Farmers Association, *Submission 2*, p. 2.

100 National Seafood Industry Alliance, *Submission 10*, p. 8.

101 National Seafood Industry Alliance, *Submission 10*, p. 9.

**3.63 The committee recommends that the exemption regarding country of origin labelling under Standard 1.2.11 of the Australia New Zealand Food Standards Code for cooked or pre-prepared seafood sold by the food services sector be removed, subject to a transition period of no more than 12 months.**

3.64 The committee appreciates that CoOL labelling requires a complementary education and awareness-raising campaign. As noted in evidence to the committee, it is the consumers who will do most of the monitoring work through questioning at the point of sale. As customers become accustomed to the labelling requirement, it provides an opportunity for the services industry to advertise and actively market product accordingly. It is within this context of greater consumer awareness that questions pertaining to the specific origins of seafood products will emerge.

# Chapter 4

## Australian Fish Names Standard, sustainability and provenance labelling

4.1 This chapter considers the Australian Fish Names Standard (AFNS) and explores the arguments in relation to sustainability and provenance labelling with particular focus on the European model.

### Australian Fish Names Standard

4.2 The process of naming fish species is the responsibility of the Fish Names Committee (FNC) which sits within the Australian Fisheries Research and Development Corporation (FRDC). The FNC receives applications from industry regarding the naming of species before undertaking a public consultation process and deciding on species names. As part of this process, fish names are developed and modified while new species are named and incorporated into the AFNS.<sup>1</sup>

4.3 The purpose of the AFNS is to:

- improve monitoring and stock assessment thereby enhancing the sustainability of fisheries resources;
- increase efficiency in seafood marketing and improve consumer and industry profitability;
- improve accuracy in trade descriptions which enables consumers to make more informed choices when purchasing seafood and reduces the potential for misleading and deceptive conduct;
- provide more efficient management of seafood related public health incidents and food safety through improved labelling and species identification which reduces public health risk and facilitates efficient product recall arrangements;
- enhance marketability and consumer acceptability of the standard fish names used for a species eliminating misleading and deceptive conduct.<sup>2</sup>

4.4 FRDC noted that the AFNS was developed to ensure that all fish have a common set of names that are used along the supply chain. It made the point that the correct use of fish names enhances traceability and provides confidence for consumers.<sup>3</sup> According to Dr Patrick Hone, Executive Director of FRDC, development of the AFNS provides the opportunity for uniformity across the states

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1 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 9.

2 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 2.

3 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 9.

and territories with regard to the recording of species, which is fundamental for both sustainability and fishery science.<sup>4</sup>

### ***Challenges in achieving standardisation***

4.5 As a voluntary scheme, the AFNS has no legal weight and serves as a reference.<sup>5</sup> SIAA argued that, as the AFNS had not been adopted by Food Standards Australia New Zealand (FSANZ) or state food safety authorities, its voluntary application had 'significantly weakened' it.<sup>6</sup>

4.6 Some submitters supported mandatory application of the AFNS for this reason.<sup>7</sup> They argued that legislated application of the AFNS would ensure that customers are provided with accurate information about their seafood choices and could be confident that they are getting the fish they have paid for.<sup>8</sup> The point was made that national application of standard fish names would provide food safety benefits, particularly in the area of product recall.<sup>9</sup> The Common Language Group (CLG) argued that the introduction of a legal requirement to use fish names in the AFNS, coupled with the application of country of origin labelling throughout the supply chain, including in relation to unpackaged seafood, would largely resolve concerns regarding 'misrepresentation, deception and subsequent consumer complaints'.<sup>10</sup>

4.7 However, not all specific species have a unique, standard name that can be incorporated into the AFNS. One such example is that of flathead which can be used to describe a number of different Australian species including dusky flathead and tiger flathead as well as some imported species which are not flathead species at all.<sup>11</sup> FRDC explained that while the AFNS has recorded the names of over 5000 species, many such names are group names, covering multiple species for which naming

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4 Dr Patrick Hone, Fisheries Research and Development Corporation, *Committee Hansard*, 29 September 2014, p. 60.

5 Mr Paul Pak Poy, Department of Agriculture, *Committee Hansard*, 29 September 2014, p. 68.

6 Seafood Importers Association of Australasia, *Submission 1*, p. [2].

7 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 9; National Seafood Industry Alliance, *Submission 10*, p. 9; Southern Shark Industry Alliance Inc. and Traffic, *Submission 13*, p. 4.

8 National Seafood Industry Alliance, *Submission 10*, p. 9; Australian Fisheries Research and Development Corporation, *Submission 17*, p. 4.

9 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 9; Southern Shark Industry Alliance Inc. and Traffic, *Submission 13*, p. 4.

10 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 18.

11 Ms Tooni Mahto, Australian Marine Conservation Society, *Committee Hansard*, 29 September 2014, p. 27.



conventions are yet to be established.<sup>12</sup> Greenpeace argued this made parts of the AFNS so broad as to be ineffective, allowing a large number of species groups to be labelled with the same common name. As a case in point, it is legal to label any number of species as white fish. Greenpeace made the point that while such labelling was not untrue, it provided consumers with no useful information as white fish is not a species of fish and the term does not appear in the AFNS.<sup>13</sup>

4.8 Greenpeace and WWF-Australia argued that it was important that Australia achieve accuracy in naming fish and recommended that adequate resources be provided to develop the AFNS to a point where standardised common names match each individual species. They suggested that until such time as the AFNS has been adequately developed, in instances where common names have yet to be applied to each species, the scientific name should be legally required.<sup>14</sup>

4.9 However, other submitters held different views. While some recognised mandatory use of the AFNS as an important aspiration, the fact that species are known by different names in different states was seen as a major challenge. As NT restaurant proprietor, Mr Simon Matthews explained, some fish are known by up to four different names across the country.<sup>15</sup> A further challenge identified was that the universal application of fish names would need to be applied across the entire supply and not only to fresh fish retailers.<sup>16</sup>

4.10 The point was made that standardisation would not only require agreement between the states and territories on a name for each particular species, but also an extensive consumer and industry awareness campaign to complement the name changes.<sup>17</sup> In fact, MFMA argued against a mandatory scheme on the grounds that there is limited awareness of fish names standards and name changes to key species within the industry let alone amongst the community.<sup>18</sup> Furthermore, requiring businesses to sell seafood under new and unfamiliar names would carry a financial burden. Mr Kitchener also submitted that, while businesses can currently sell seafood under the names listed in the AFNS, they are also able to use historically entrenched common use marketing names as long as they are not misleading or deliberately

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12 Dr Patrick Hone, Fisheries Research and Development Corporation, *Committee Hansard*, 29 September 2014, p. 60.

13 Greenpeace Australia Pacific, *Submission 6*, p. [6].

14 Greenpeace Australia Pacific, *Submission 6*, p. [11]; WWF-Australia, *Submission 21*, p. 6.

15 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 13.

16 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 1.

17 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 13.

18 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 1.

mislabelled.<sup>19</sup> However, any move from locally used names, which are familiar to consumers, to standard names which would be unfamiliar to both consumers and industry alike, would require a complementary consumer awareness and education campaign at additional costs on the industry.

4.11 The voluntary status of the AFNS also brought to light an anomaly in labelling requirements regarding the import and export of fish and fish products to and from Australia. As Australian exporters of fish and fish products must use the Australian Fish Names list as part of the department's export documentation system (ExDoc system), they are compliant with the AFNS.<sup>20</sup> According to FRDC, the same requirements are not placed on importers of the same products. While the Imported Food Inspection Scheme refers to the Code, as AFNS is not mandated in the Code, the naming of fish and fish products cannot be enforced at Australia's borders. This means that the description on a box of imported fish products may not actually match the fish inside the box.<sup>21</sup> This anomaly provides scope for mislabelling to take place, with flake being mislabelled as gummy shark one such example.<sup>22</sup> FRDC argued that mandating names in Standard 2.2.3 of the Code would address this anomaly.<sup>23</sup>

### **Sustainability and provenance information**

4.12 While supporting the introduction of country of origin labelling in relation to the food services sector (as discussed in chapter 3) and the mandatory application of the AFNS, submitters including Greenpeace and AMCS argued that an additional step was required by way of the provision of sustainability and provenance labelling information.<sup>24</sup>

4.13 At present, the Code has no labelling requirements regarding sustainability of seafood production.<sup>25</sup> Furthermore, there are no current requirements that food for retail sale be identified with information about either sustainability or farming, harvest or capture methods.<sup>26</sup> However, according to the CLG, in order for consumers to make an informed choice on sustainable seafood, they need to know:

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19 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 6.

20 The ExDoc system electronically processes notices of intention to export and where required provide certification for products including fish. Australian Fisheries Research and Development Corporation, *Submission 17*, p. 4.

21 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 4.

22 Mr Matthew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 33.

23 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 4.

24 Ms Tooni Mahto, Australian Marine Conservation Society, *Committee Hansard*, 29 September 2014, p. 22.

25 NSW Food Authority, *Submission 19*, p. 3.

26 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 4; Australian Marine Conservation Society Inc., *Submission 15*, p. 3.

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- Which fish is this?
  - Where did it come from?
  - How much is caught and how is it caught?
  - How is the fishery managed and assessed?
  - Who is saying/endorsing that the fish is sustainable and on what basis?<sup>27</sup>

4.14 CLG recommended that the Code be amended to require the source, method of harvest, and sustainability assessment of both domestic and internationally caught seafood. In addition, it proposed that FZANZ develop regulations to display provenance of domestic and international seafood products as well as regulations on standards of sustainability for imported seafood product.<sup>28</sup>

4.15 WWF-Australia also supported the introduction of a mandatory requirement to label products with details of species, origin and production method. It argued that these requirements, combined with independent third party seafood certification under schemes such as Marine Stewardship Council (MSC) and Aquaculture Stewardship Council, would significantly enhance the ability of consumers to make informed decisions when purchasing seafood.<sup>29</sup>

4.16 However, SIAA argued that it was unlikely that a standard for labelling information could be developed that sufficiently, accurately and honestly articulated the complex subject of sustainability and provenance. It noted the wide abuse of words such as 'sustainable', and cautioned against the use of such words to cover complex subjects.<sup>30</sup>

4.17 This concern was supported by a CLG survey which revealed considerable confusion with regard to sustainability, starting with the need to 'agree key elements to be included in sustainability definitions, use consistent terms and agree on terminology used across all the key elements of sustainability'.<sup>31</sup> CLG noted that the definition of sustainability around any one species is too technically complex for consumers and that the introduction of values-neutral data which identifies species,

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27 Common Language Group, *Defining Sustainable Australian Seafood – Wild Capture Fisheries Issues Paper 1*, Final, Australian Fisheries Research and Development Corporation, p. 1, <http://frdc.com.au/knowledge/Documents/Issue-Paper1-Defining-Sustainable-Wild-Fisheries.pdf> (accessed 17 September 2014).

28 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 17.

29 WWF-Australia, *Submission 21*, p. 4.

30 Seafood Importers Association of Australasia, *Submission 1*, p. [2].

31 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p. 18.

origin and production method could be provided to consumers to enable them to make informed, independent choices.<sup>32</sup>

4.18 Similarly, the NSIA made the point that there are approximately 18 different bodies within Australia which apply certification but that without a consistent and universally applied definition of sustainability, consumers are left confused about what constitutes a 'good' method of catch.<sup>33</sup>

4.19 SIAA suggested that the development of a standard for optional statements to ensure accuracy and honesty would be more desirable. It argued that this was already partly achieved through the voluntary display of best practice certification logos and use of codes that can be scanned by portable devices to obtain more detailed provenance information.<sup>34</sup> Furthermore, the NSW Food Authority made the point that, while the Code does not prescribe any requirement to label a food product on sustainability and provenance grounds, where producers choose to do so, the basic truth in labelling provisions in state and territory legislation would apply. Therefore, any claim in relation to environmental certification and sustainability would need to be substantiated.<sup>35</sup>

4.20 In recognising the complexity in defining product as 'sustainable', some witnesses argued in favour of the provision of value-neutral information including where product is from, how it is caught or if it is farmed.<sup>36</sup> While recognising that it was unrealistic to expect all stakeholders to agree on matters of sustainability in all cases, Greenpeace argued that values-neutral data which identifies species, origin, and production method should be provided to consumers to allow them to make informed, independent choices.<sup>37</sup> Similarly, Mr Matthew Evans pointed out that at under the current labelling framework, consumers do not know exactly what they are putting into their mouths, where the product is from, how it was caught or whether it was farmed.<sup>38</sup> Greenpeace and AMCS argued that seafood labelling laws for all seafood purchased at all points of sale should require display of the following information:

- What it is – standardised species common name indicating unique species and/or scientific name;
- Where it was caught –

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32 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, pp 19–20.

33 Mr Grahame Turk, National Seafood Industry Alliance, *Committee Hansard*, 29 September 2014, p. 48.

34 Seafood Importers Association of Australasia, *Submission 1*, p. [2].

35 NSW Food Authority, *Submission 19*, p. 4.

36 Mr Matthew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 31.

37 Greenpeace Australia Pacific, *Submission 6*, p. [2].

38 Mr Matthew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 29.

- a. For Australian seafood: the individual Australian state or Commonwealth fishery from which the fish is sourced;
  - b. For imported seafood: the United Nations Food and Agriculture Organisation (FAO) major fishing area designation identified by name or, where fish is harvested exclusively in national exclusive economic zones (EEZ), the name of the individual country(ies); and individual stock where more than one known stock exists in a given FAO area or EEZ or fishery.
- How it was caught – specific type of fishing gear used as per UN FAO designation.<sup>39</sup>

4.21 In regard to catch method, Mr Evans provided an example of a gummy sharks which are fished by line and net:

As a consumer, if you want to make a valid choice about sustainability, if you could buy the line caught knowing that no school sharks have died, you might be willing to pay more for that or you might simply choose to eat a different fish, rather than eat one that came from the net.<sup>40</sup>

4.22 However, Mr William Mure from Mures Fish Centre in Tasmania highlighted the importance of education in relation to catch method given that perceptions about method of capture may have no basis in reality. He argued that legislating provision of information on catch or production method might be a step too far given these widely held misperceptions. He noted that one such common misperception was that trawling and netting are bad practices.<sup>41</sup> Yet, in Australia, trawling is the only way to capture prawns.<sup>42</sup> NSIA shared these concerns as its Chairman, Mr Grahame Turk, explained:

The example I used was 'trawled' – and you put on the label that it was trawled product, many people will think that trawling is bad, because they have been told that. And that is incorrect. Not all trawling is bad. Mid-water trawling is not bad if you have by-catch exclusion devices and so on, in the trawl nets. Bottom trawling is not bad if it is over shifting ground.<sup>43</sup>

### ***European Union Regulation 1379/2013***

4.23 A number of submitters made the point that both the European Union (EU) and the United States (US) adopted measures to regulate the importation of seafood sourced from illegal, unregulated or unreported fisheries. According to the CLG,

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39 Greenpeace Australia Pacific, *Submission 6*, p. [2]; Australian Marine Conservation Society Inc., *Submission 15*, p. 1.

40 Mr Matthew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 35.

41 Mr William Mure, Mures Fish Centre, *Committee Hansard*, 29 September 2014, p. 36.

42 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 46.

43 Mr Grahame Turk, National Seafood Industry Alliance, *Committee Hansard*, 29 September 2014, p. 49.

greater transparency is needed in relation to the provenance of seafood products imported into Australia beyond the current, minimal requirements of country of origin.<sup>44</sup> Mr Evans made a similar point, emphasising that as at least 70 per cent of seafood consumed in Australia is sourced from overseas, it is derived from countries outside of Australia's regulations.<sup>45</sup>

4.24 Regulation 1379/2013 was put in place by the EU in December 2013. It sets out the conditions for the common organisation of the EU market for fish/fishery products. Article 35 of the regulation requires that all fishery and aquaculture products marketed within the EU, irrespective of their origin or marketing method, may be offered for sale to the final consumer or to a mass caterer only if marketing or labelling indicates:

- (a) The commercial designation of the species and its scientific name;
- (b) The production method, in particular by the following words "...caught..." or "...caught in freshwater...." or "...farmed....";
- (c) The area where the product was caught or farmed and the category of fishing gear used in capture of fisheries;
- (d) Whether the product has been defrosted;
- (e) The date of minimum durability, where appropriate.<sup>46</sup>

4.25 The information may be supplied on billboard or posters at point of final sale for non-pre-packaged fish.<sup>47</sup> Under the EU regulations, catch documentation from the point of export and in some instances, from the point of capture, is also required. Importers to the EU must provide a paper trail which reveals the species of the consignment, vessel or processing plant that it came from.<sup>48</sup>

4.26 AMCS, WWF-Australia and Greenpeace argued that the EU managed to implement the regulations in a market which is far more complex than that in Australia.<sup>49</sup> They suggested that there should be little practical impediment to adopting similar guidelines in Australia given the less complicated nature of Australia's seafood trade.<sup>50</sup> In terms of some of the costs involved in moving to an

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44 Australian Fisheries Research and Development Corporation, *Submission 17*, Attachment 2 – Submission from Common Language Group to FRDC, p.17.

45 Mr Matthew Evans, private capacity, *Committee Hansard*, 29 September 2014, p. 35.

46 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 6.

47 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 6.

48 Dr Ian Knuckey, private capacity, *Committee Hansard*, 29 September 2014, p. 58.

49 Australian Marine Conservation Society Inc., *Submission 15*, p. 4; WWF-Australia, *Submission 21*, p. 5; Greenpeace Australia Pacific, *Submission 6*, p. [9].

50 Greenpeace Australia Pacific, *Submission 6*, p. [9].

EU-type model, Greenpeace stated that the costs of adding fishing gear type, date of catch and related details to seafood labels in England and Wales amounted to an estimated AU \$1 million a year.<sup>51</sup>

### ***Reinventing the wheel?***

4.27 A number of submitters argued against moving towards an EU-style model for reasons including the substantial and complex changes that would be required to the existing labelling regime, which would pose a red tape and cost burden for the industry and involved businesses with the real prospect of causing greater confusion rather than clarity for consumers.<sup>52</sup> Mr Fish from the NTSC stated that establishing a system such as that of the EU with sustainability and provenance information would require an entirely new system to be established in Australia which was tantamount to reinventing the wheel.<sup>53</sup>

4.28 FRDC noted that application of the EU model in Australia would be a significant exercise given that Australian fisheries are managed by the Commonwealth as well as the states and territories, which record data on fish species differently. As there is no single straightforward process by which information is collected, every state and territory applies a different collection method.<sup>54</sup> Dr Hone explained that:

The EU is requiring a whole lot of information. For example, they want confirmation that it does not come from an illegal source. They also want confirmation that the source of stock is sustainably fished. Verifying that across Australia, in terms of the different processes—you have picked a good example with the South East Trawl because that is relatively easy; the Commonwealth fisheries have very good systems—they are not always the same in every jurisdiction and territory.<sup>55</sup>

4.29 In contrast to the EU, Australia has many species and its fishing community has not yet reached the stage where it can provide the level of detailed information required in jurisdictions such as the EU. To highlight this point, Dr Hone provided the example of regional branding in the marketplace, whereby any claim that identifies seafood in accordance with location of production should have a scientific basis.

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51 Mr Nathaniel Pelle, Greenpeace Australia Pacific, *Committee Hansard*, 29 September 2014, p. 24.

52 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 47; NSW Food Authority, *Submission 19*, p. 5; Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [2]; Mr Michael Kitchener, Master Fish Merchants Association of Australia, *Committee Hansard*, 29 September 2014, p. 1.

53 Mr Robert Fish, Northern Territory Seafood Council, *Committee Hansard*, 29 September 2014, p. 47.

54 Dr Patrick Hone, Fisheries Research and Development Corporation, *Committee Hansard*, 29 September 2014, p. 63.

55 Dr Patrick Hone, Fisheries Research and Development Corporation, *Committee Hansard*, 29 September 2014, p. 63.

While the technology is available to provide such evidence to demonstrate that western king prawns caught from Shark Bay are not western king prawns caught from the Spencer Gulf in South Australia, as a case in point, it comes at a cost.<sup>56</sup>

4.30 MFMA emphasised the contextual differences between the EU and Australian markets in relation to seafood sustainability, including recent research which indicated that half of European stocks are overfished and subject to overfishing.<sup>57</sup> Seafood New Zealand also raised concerns with the implementation of regulations based on those in the EU. It argued that if similar regulations were introduced in Australia, the operation of supply chains to retail would be made considerably more complex. Therefore, Australia would become a much less attractive export market for small scale suppliers from New Zealand who provide the wide range of inshore fish species that are in strong demand in Australia.<sup>58</sup>

4.31 Furthermore, MFMA submitted that ensuring compliance of such a scheme would be a time consuming and costly undertaking, and expressed doubt as to whether the inclusion of scientific names would make a material difference to the mitigation of product substitution as it is already an offence to call one type of seafood by another name.<sup>59</sup> MFMA also noted that it was not clear whether consumers would benefit from knowing the catch location of a species (outside country of origin) or the catch method.<sup>60</sup> Similarly, the department argued the point that it would be difficult to prove a genuine net public benefit from extending labelling to include sustainability and provenance information given the likely additional costs that would be imposed on the industry.<sup>61</sup>

4.32 MFMA also pointed out that, while it currently labels all species that have been produced by aquaculture (thereby all unlabelled species are wild caught), going the next step and labelling method of capture (such as trap, beach hauling, purse seine fishing and trawling) would be extremely complicated. Mr Kitchener provided the example of snapper which is fished around the country:

It is the same product, the exact same species, but it may be caught in a number of different ways. For the retailer to put, say, snapper from three different locations on display – and to show those different locations – would just be impossible.<sup>62</sup>

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56 Dr Patrick Hone, Fisheries Research and Development Corporation, *Committee Hansard*, 29 September 2014, p. 64.

57 Master Fish Merchants Association of Australia, *Submission 8*, p. 5.

58 Seafood New Zealand, *Submission 14*, p. 4.

59 Master Fish Merchants Association of Australia, *Submission 8*, p. 3.

60 Master Fish Merchants Association of Australia, *Submission 8*, p. 4.

61 Mr Paul Pak Poy, Department of Agriculture, *Committee Hansard*, 29 September 2014, p. 68.

62 Mr Michael Kitchener, Master Fish Merchants' Association of Australia, *Committee Hansard*, 29 September 2014, p. 4.



4.33 SFM also noted the complexity which such a system for the food services sector given the fact that many restaurants and other outlets source product from multiple suppliers.<sup>63</sup> Mr Skepper explained that the:

MSC is a very expensive process, and we always fall back on to the fact that Australia has the EPBC Act, which is based on the FAO codes of responsible fisheries management and responsible fishing practices. So we have a regulatory system in place now that says that we will manage our fisheries in accordance with the FAO codes. In many respects, the baseline is already there. So, if it is produced in Australia, if it is correctly named and if it is correctly labelled for country of origin, the consumer can purchase that product with confidence that it is well managed.<sup>64</sup>

4.34 ABFA made the point that freshness is the primary consideration of consumers followed by origin while matters relating to catch method are yet to register on the minds of consumers.<sup>65</sup> SFM and the ABFA suggested that if sustainability is important to a consumer in choosing what to purchase, they can be confident that buying Australian product constitutes a purchase of sustainably managed stock.<sup>66</sup> While Greenpeace argued that not all seafood is sustainable in Australia, it acknowledged that Commonwealth fisheries are amongst the best fisheries in the world.<sup>67</sup> Furthermore, according to the respective industry bodies, barramundi is either gillnet caught or farmed domestically while most imports are farmed fish.<sup>68</sup> The Australian prawn farm sector is almost exclusively ponds while catch brood stock is relied upon for only a small percentage of production.<sup>69</sup> Therefore, there would be limited value in providing information on the catch method for these products.

4.35 The Queensland Government emphasised that current regulatory requirements do not prevent businesses from providing information to consumers regarding the sustainability and provenance of food, including seafood that they sell.<sup>70</sup>

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63 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 6.

64 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 7.

65 Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 17.

66 Mr Bryan Skepper, Sydney Fish Market, *Committee Hansard*, 29 September 2014, p. 6; Mr Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 19.

67 Mr Nathaniel Pelle, Greenpeace Australia Pacific, *Committee Hansard*, 29 September 2014, p. 24.

68 Chris Calogeras, Australian Barramundi Farmers Association, *Committee Hansard*, 29 September 2014, p. 17.

69 Ms Helen Jenkins, Australian Prawn Farmers Association, *Committee Hansard*, 29 September 2014, p. 17.

70 Queensland Government Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. [2].

4.36 The NSW Food Authority drew on the position of the Blewett Review into food labelling to argue that any consumer values information is best left to market forces, concluding that:

It would be an unnecessary burden on industry to mandate consumer value claims and at this time it is best left to commercial market mechanisms to drive consumer value information.<sup>71</sup>

4.37 FRDC warned that if Australia is to require further labelling information for consumers at the final point of sale beyond the current species naming requirements and CoOL labelling, the objectives underpinning the requirement for such additional information should be made clear and be generally supported by stakeholders. Noting that additional information requirements would have implications for business compliance and impact on costs, FRDC explained that:

The more information detail that may be required on point of sale labels – for example as to method of catch or origin of fish tracked back to capture or farming area – the greater the need to maintain secure, physical separation between batches of fish product and ensure that the integrity of those information elements is maintained from origin to point of sale.<sup>72</sup>

4.38 FRDC further noted the importance of Australia remaining conscious of its international trade rule obligations to ensure equal treatment as between domestic suppliers and suppliers of imported products. To this end, Article 11.2.6 of the Code of Conduct for Responsible Fisheries explains that:

States should not directly or indirectly create unnecessary or hidden barriers to trade which limit the consumer's freedom of choice of supplier or that restrict market access.<sup>73</sup>

4.39 FRDC suggested that the starting point in respect of labelling was to ensure the use of correct fish names, and for all retailers to use the AFNS. It noted that this would 'go a long way to providing consumers the information needed to make informed decisions about their purchase'.<sup>74</sup> As consumers have a right to make informed choices when purchasing, they must also have confidence in the correct labelling. For reasons including traceability and the fact that some species of seafood may cause problems to susceptible populations, ranging from allergies to serious illness, FRDC and the fish names community promoted the use of the fish names listed in AFNS throughout Australia.<sup>75</sup>

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71 NSW Food Authority, *Submission 19*, p. 5.

72 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 9.

73 Food and Agriculture Organisation, *FAO Technical Guidelines For Responsible Fisheries: Responsible Fish Trade*, 2009, p. 11.

74 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 10.

75 Australian Fisheries Research and Development Corporation, *Submission 17*, p. 13.

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## Committee view

### *Australian Fish Names Standard*

4.40 The committee recognises the importance of a universally applied standard in relation to fish names. To this end, the committee acknowledges efforts to establish a common standard under the AFNS which is consistent with international principles including the FAO guidelines.

4.41 While recognising the validity of the arguments in support of the mandatory application of the AFNS, the committee takes the view that the challenges identified in this report and in evidence to the committee, including the fact that different names are given to the same species across the country and the naming conventions in relation to each and every species, must first be addressed.

4.42 The committee holds the view, reflected in the evidence of many submitters, that any steps to mandate the use of the AFNS in the future should be accompanied by an extensive education and awareness-raising campaign targeted at the industry as well as consumers.

### *Sustainability and provenance labelling*

4.43 While there were many divergent views in relation to seafood labelling, most witnesses were in agreement that CoOL should be extended to include the food services sector.<sup>76</sup> The committee holds the view that steps beyond this, including the introduction of an EU-type labelling model, would require substantial changes to industry structures which would be onerous for the Australian industry and premature in terms of consumer awareness.

4.44 To this end, the point was repeatedly made throughout the inquiry that any changes to seafood labelling would not have the desired effect of informing consumers unless it is clear, simple, consistent and demand-driven.

4.45 The committee expects that greater consumer awareness brought about by the expansion of CoOL as recommended by this report, together with 'buy local' campaigns that will inevitably follow, will drive positive sustainability outcomes. Consumers will ultimately decide whether they are happy to purchase Australian or imported product or whether they want additional labelling information, including method of capture, to make informed choices. Ultimately, it is in the interests of retailers, supermarkets and the services industries to provide the information demanded by consumers. For this reason, information such as catch method, gear type and related information including traceability may well become important opportunities for branding and therefore selling points for retailers and restaurants. The committee notes that, in response to consumer feedback, Coles Supermarkets

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76 Mr Anthony Ciconte, Southern Shark Industry Alliance, *Committee Hansard*, 29 September 2014, p. 53.

provide information on all its Coles Brand seafood labels as to whether the seafood is farmed or wild caught.<sup>77</sup>

4.46 The committee's prediction in this regard is informed by the NT, where licence condition have provided consumers in the territory with a means of distinguishing between seafood products, resulting in increased engagement with, and more consciousness of, their seafood choices. To this end, the introduction of the licence condition coupled with a 'support local' campaign has had the effect of educating consumers as Mr Hanna explained:

...it has actually taught the consumer in a very short time that there is a question to be asked every time they order seafood, whether it be in a restaurant or at a retail level or even for fast food.<sup>78</sup>

4.47 Another NT proprietor, Mr Simon Matthews observed that consumers are becoming more aware of what they want to eat and whether or not they are endangering a species by consuming it.<sup>79</sup> Within this context, sustainability, freshness and ecological issues are increasingly raised by consumers. Mr Matthews explained that common questions at NT restaurants now focus on where the seafood comes from, whether it is fresh and its journey to the plate.<sup>80</sup> There is no reason to suggest that the extension of CoOL to the food services sector, combined with a robust education campaign, could not have a similar impact on consumer awareness around the rest of the country.

4.48 The committee upholds the view that introduction of an EU-type model would require considerable structural changes to the way the industry operates and with it, substantial compliance costs. Notwithstanding this point, the committee notes that the EU reforms were progressively introduced. Species names and common names were legislated before the EU 2014 reforms were introduced.<sup>81</sup> Moreover, the additional labelling information required as part of the EU reforms including gear type and information regarding the catch is to be implemented over the course of the year.<sup>82</sup> Noting that these requirements were introduced progressively and that the naming conventions were in place for some time before the additional labelling requirements were introduced, the committee suggests that any steps towards sustainability and

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77 Coles Supermarkets Australia, *Submission 20*, p. 2.

78 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 3.

79 Mr Simon Matthews, Owner of Pee Wees on the Point, *Committee Hansard*, 13 November 2014, p. 3.

80 Mr Jason Hanna, Owner of Deck Bar, The Arch Rival and Nirvana, *Committee Hansard*, 13 November 2014, p. 3.

81 Mr Nathaniel Pelle, Greenpeace Australia Pacific, *Committee Hansard*, 29 September 2014, p. 28.

82 Mr Nathaniel Pelle, Greenpeace Australia Pacific, *Committee Hansard*, 29 September 2014, p. 28.

provenance labelling in Australia take a similarly gradual approach that is led by consumer demand and begins with the national adoption of the AFNS.

**Senator Glenn Sterle**  
**Chair**



## **Australian Greens' Additional Comments**

1.1 Committee recommendations on removing the exemption on mandatory country of origin labelling (CoOL) are a significant and welcome first step towards addressing the labelling of seafood that would ultimately be beneficial to consumers, the local fishing industry and the national economy. However, they fall short of the opportunity provided by this Inquiry to recommend and build support for a stronger framework for critical national and international ocean sustainability outcomes.

1.2 It is disappointing that the committee didn't take this opportunity to recommend to the Government a complete approach to implementing seafood labelling that would much more acutely focus on ocean sustainability outcomes. This approach should include recommended regulatory actions – possibly staged to provide time for consideration of formal regulatory impact assessments, adoption by the market, and compliance - on Australian Fish Names Standards and then move on to more comprehensive sustainability and provenance labelling standards.

1.3 The Greens believe that despite the ongoing complexity of the work of the Fisheries Research and Development Corporation in relation to Australian Fish Names Standard this should not be used an excuse to delay moves to more holistic seafood labelling.

1.4 Sustainability and provenance labelling can be crafted by improving on and localising the current European Union (EU) Regulation 1379/2013 and lessons will be learned in the EU over the coming months as the regulation is implemented. The Greens position is that this is a natural evolution for seafood labelling in Australia.

1.5 Seafood labelling is one element of ensuring sustainable fisheries management in Australia. The Review of Commonwealth Fisheries: Legislation, Policy and Management lead by David Borthwick AO PSM and delivered on 17 December 2012 identified gaps and recommended required improvements specifically in the areas of ecological risk and ecosystem impacts, the application of the precautionary principle, and transparently addressing the trade-offs between ecological and industry outcomes.

1.6 These specific recommendations from the Borthwick Review go to the core of the long-term ecological and economic sustainability of the Australian seafood industry. The Government is yet to respond to this important report and this should be noted in the committee's final report.

1.7 Until it does so, the Greens believe any assumptions that all Australian Seafood caught and sold is “ecologically sustainable” (in contrast to imported seafood being unacceptably high risk in sustainability terms) is potentially misleading and counterproductive to the aims of broader seafood labelling in achieving sustainability outcomes.

1.8 This inquiry's recommendations - whilst a step in the right direction - have given primacy to untested red-tape and business cost issues over achieving better

ocean sustainability outcomes, which are long-term requirements for both the marketplace and marine stewardship.

1.9 The Greens hope that community support and political pressure for better labelling will lead to continued improvements over time in sustainable seafood labelling.

**Senator Peter Whish-Wilson**  
**Australian Greens**



## **Additional Comments by Senator Nick Xenophon**

1.1 At the outset, I strongly endorse the comments and recommendation in the committee report. I believe the committee has presented a thorough, considered argument supporting country of origin labelling (CoOL) for cooked or pre-prepared seafood sold by the food services sector, and that the Government should act on the committee's recommendation as a matter of urgency. It is absurd that uncooked fish sold in supermarkets or fish markets around the country must have CoOL, but similar rules do not apply for cooked food in takeaway shops or restaurants. This is, in a sense, allowing our laws to fail consumers at the last hurdle.

1.2 The economic benefits of improved labelling requirements are significant. As highlighted in the committee report, since the introduction of CoOL in supermarkets, the trawl fishery industry increased its turnover from \$4 million to over \$30 million<sup>1</sup>, and sales for snapper have increased 400 per cent.<sup>2</sup> Further, during the 29 September hearing, Ms Helen Jenkins of the Australian Prawn Farmers Association estimated that over 4,000 jobs would be created in the farmed prawn sector alone if the CoOL requirements were extended.<sup>3</sup> Mr Chris Calogeras of the Australian Barramundi Farmers Association also stated that hundreds of jobs could be created in the barramundi industry.<sup>4</sup>

1.3 I do believe, however, that there are some areas in which the committee's comments could have gone further. This is particularly true in relation to the voluntary status of the Australian Fish Names Standard (AFNS), where the committee acknowledged the importance of a universally applied standard but did not make a specific recommendation that this should occur.

1.4 I note the concerns of various submitters that the AFNS requires further work before it can be appropriately and consistently applied across Australia. I also note the views put forward in relation to sustainability and provenance labelling, similar to the requirements currently in place in the EU, and the significant work that would need to be done to make such a model feasible in Australia. As such, given the importance of these issues, it is my view that the Government should take immediate steps towards improving the existing AFNS and working towards a more comprehensive labelling model.

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1 Mr Robert Fish, Northern Territory Seafood Council, Committee Hansard, 29 September 2014, p. 43.

2 Mr William Passey, Australia Bay Seafood, Committee Hansard, 13 November 2014, p. 17.

3 Ms Helen Jenkins, Australian Prawn Farmers Association, Committee Hansard, 29 September 2014, pp. 15-16

4 Mr Chris Calogeras, Australian Barramundi Farmers Association, Committee Hansard, 29 September 2014, p. 14.

**Recommendation: That the Government, as a matter of urgency, establish an expert panel to consult with industry, consumers and other interested parties to create and establish a nationally-consistent mandatory standard for fish names, and a broader labelling framework based on the model currently operating in the European Union.**

1.5 More broadly, it is unsurprising to see that many of the issues raised regarding seafood labelling also apply to food labelling as a whole. The push for improvements to Australia's food labelling regime has so far been resisted by the previous and current Federal Governments, despite the clear desire of consumers to have a clearer system. This report clearly outlines, using the example of the Northern Territory system, the benefits clearer labelling can have to local Australian producers. It is inconsistent at best and nonsensical at worse to deny that better labelling laws would benefit both Australian producers and Australian consumers as a whole.

1.6 The submission from FSANZ outlines the requirements under the Australia New Zealand Food Standards Code relating to the use of 'generic names' (in this instance, the use of the word 'fish') in ingredient lists.<sup>5</sup> This use of generic terms applies across the board in terms of ingredient labels and allows, for example, the use of the term 'vegetable oil' to cover the use of potentially controversial ingredients such as palm oil. I note that a recommendation in the 2011 Blewett Review addressed this issue, but has not been implemented.

**Recommendation: That the Government, as a matter of urgency, undertake a review of the implementation of recommendations from the 2011 Blewett Review, and expedite action on recommendations that have not yet been addressed.**

1.7 The committee report also notes concerns raised by barramundi sector regarding the use of 'free riding', which occurs when products are advertised in such a way as to imply or give the impression they are Australian. The concern with this type of labelling is that importers are benefiting from Australia's image of sustainable, healthy and fresh products without having to incur any of the cost of creating and maintaining that reputation.<sup>6</sup> 'Free riding' makes it very clear that, while the Government and regulators may not believe there is a significant benefit in being seen as 'Australian', importers disagree and will seek to use our weak labelling laws to obtain that benefit for themselves.

1.8 Concerns in this area have been raised across a number of sectors. One example raised with me by a constituent several years ago related to biscuits that were being sold under the name Ozdownunder and used images that are considered 'Australian' (including gum leaves and the Southern Cross) on the packaging, but were actually made overseas. In response to my complaint, Ms Rayne de Gruchy, then Acting CEO of the ACCC, stated:

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5 Food Standards Australia New Zealand, Submission 5, p. 5.

6 Mr Robert Fish, Northern Territory Seafood Council, Committee Hansard, 29 September 2014, p. 42.

“The ACCC shared your view that the logo used on the packaging of the cookies could mislead consumers into believing that the cookies are a product of Australia. In forming our opinion we considered the location and prominence of the country of origin representation of the reverse of the packet and concluded that it was likely to be inadequate to correct any misleading impression.”

**Recommendation: The Government and regulators should restrict the use of images, words and phrases on labelling where it may mislead consumers into believing a product is Australian.**

1.9 Given the committee’s strong support for country of origin labelling for seafood, and the acknowledged benefit for both producers and consumers as outlined in the report, I hope this will lead to urgent action on Australia’s weak food labelling laws as a whole.

**NICK XENOPHON**



# Appendix 1

## Submissions received

<b>Submission Number</b>	<b>Submitter</b>
1	Seafood Importers Association of Australasia Inc
2	Australian Barramundi Farmers Association
3	Australian Prawn Farmers Association
4	Queensland Department of Agriculture, Fisheries and Forestry
5	Food Standards Australia New Zealand
6	Greenpeace Australia Pacific
7	Northern Territory Department of Primary Industry and Fisheries
8	The Master Fish Merchants' Association of Australia
9	Sydney Fish Market
10	National Seafood Industry Alliance
11	Department of Agriculture
12	Northern Territory Seafood Council
13	Southern Shark Industry Alliance and Traffic International
14	Seafood New Zealand
15	Australian Marine Conservation Society
16	Mr Matthew Evans
17	Fisheries Research and Development Corporation
18	Mr Simon McGuire
19	NSW Food Authority
20	Coles Supermarkets Australia Pty Ltd
21	WWF Australia
22	Department of Health
23	Justice and International Mission Unit, Synod of Victoria and Tasmania, Uniting Church in Australia
24	Mr Richard Lamendin
25	Woolworths

## **Additional information received**

- Received on 13 October 2014, from The Master Fish Merchants' Association of Australia. Answer to Question taken on Notice on 29 September 2014.
- Received on 14 October 2014, from the Sydney Fish Market. Answer to Question taken on Notice on 29 September 2014.
- Received on 14 October 2014, from the Australian Barramundi Farmers Association. Answer to Question taken on Notice on 29 September 2014.
- Received on 14 October 2014, from Food Standards Australia New Zealand. Answers to Questions taken on Notice on 29 September 2014.
- Received on 14 October 2014, from the Department of Agriculture. Answers to Questions taken on Notice on 29 September 2014.
- Received on 21 October 2014, from the Australian Marine Conservation Society. Correspondence clarifying statements made at 29 September 2014 hearing.
- Received on 14 November 2014, from Mr Bob Richards. Additional information, regarding feed input.
- Received on 19 November 2014, from NT Tourism. Answer to Question taken on Notice on 13 November 2014.
- Received on 19 November 2014, from the Australian Hotels Association (Northern Territory). Answer to Question taken on Notice on 13 November 2014.

## **Appendix 2**

### **Public hearings and witnesses**

#### **29 September 2014, Sydney, NSW:**

- CALOGERAS, Mr Chris, Executive Officer, Australian Barramundi Farmers Association
- CICONTE, Mr Anthony, Executive Director, Southern Shark Industry Alliance
- COOPER, Ms Leonie Michelle, Manager, Licensing, Legislation and Compliance Services, Department of Primary Industry and Fisheries, Northern Territory
- CURNOW, Mr Ian Arthur, Deputy Chief Executive, Department of Primary Industry and Fisheries, Northern Territory
- EVANS, Mr Matthew, private capacity
- FISH, Mr Robert, Chairman, Northern Territory Seafood Council
- HONE, Dr Patrick, Executive Director, Fisheries Research and Development Corporation
- JENKINS, Ms Helen, Executive Officer, Australian Prawn Farmers Association
- KITCHENER, Mr Michael, Executive Officer, Master Fish Merchants' Association of Australia
- KNUCKEY, Dr Ian, Private capacity
- MAHTO, Ms Tooni, Fisheries Program Manager, Australian Marine Conservation Society
- McCUTCHEON, Mr Steve, Chief Executive Officer, Food Standards Australia New Zealand
- MURE, Mr William James, Director, Mures Fish Centre
- PAK POY, Mr Paul, Director, Fisheries Branch, Department of Agriculture
- PELLE, Mr Nathaniel, Oceans Campaigner, Greenpeace Australia Pacific
- RITTER, Mr David, Chief Executive Officer, Greenpeace Australia Pacific
- SKEPPER, Mr Bryan, General Manager, Sydney Fish Market
- TURK, Mr Grahame Richard, Chair, National Seafood Industry Alliance
- WALTERS, Mr Adam, Research and Investigations Coordinator, Greenpeace Australia Pacific

**13 November 2014, Darwin, NT:**

- CROWE, Mr Des, Government and Media Relations, Australian Hotels Association, Northern Territory Branch
- HANNA, Mr Jason, Owner of the Deck Bar, The Arch Rival and Nirvana, member Australian Hotels Association
- HAYWARD, Mr Timothy John, Private capacity
- HIRSCH, Mr Andrew, The Barra Bar Pty Ltd
- MATTHEWS, Mr Simon, Owner of Pee Wees on the Point, Australian Hotels Association
- MORGAN, Mrs Suzanne, Executive Director, Business and Market Segments, Tourism NT
- PASSEY, Mr William Robert, Private capacity
- RICHARDS, Mr Robert James, Managing Director, Humpty Doo Barramundi; and Secretary, Australian Barramundi Farmers Association
- ROTUMAH, Mr Joseph, Owner of Pulp Kitchen and Hungry Joes
- SMITH, Mr James, Committee Member, Tourism Top End