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Ms Julia Morris
Committee Secretary
House of Representatives Standing Committee on Agriculture and Industry
Parliament House
CANBERRA ACT 2600

By email: agind.reps@aph.gov.au

Dear Ms Morris

FSANZ submission to the Inquiry into country of origin food labelling

Thank you for your letter of 28 March 2014 on behalf of the House of Representatives Standing Committee on Agriculture and Industry, inviting Food Standards Australia New Zealand (FSANZ) to make a submission to the inquiry into country of origin food labelling.

I have attached a submission to the inquiry from FSANZ on the aspect of the terms of reference for which FSANZ has responsibility. In this regard, FSANZ is responsible for the administration of the *Australia New Zealand Food Standards Code* (the Code), which includes a standard on requirements for mandatory country of origin labelling of food. 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.

I trust that the information provided in this submission will assist the Committee with the inquiry.

Yours sincerely

Steve McCutcheon
Chief Executive Officer

1 May 2014

STANDING COMMITTEE ON AGRICULTURE AND INDUSTRY INQUIRY INTO COUNTRY OF ORIGIN FOOD LABELLING FSANZ SUBMISSION

The role of Food Standards Australia New Zealand

Food Standards Australia New Zealand (FSANZ) is an independent statutory authority established under the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

FSANZ is responsible for protecting the health and safety of people in Australia and New Zealand through the development and maintenance of food standards for both countries. Food standards developed and gazetted by FSANZ are compiled as the *Australia New Zealand Food Standards Code* (the Code). These standards including for labelling, apply to food produced for sale in, or imported to, Australia and New Zealand.

FSANZ has no powers in respect of enforcement of standards in the Code. Enforcement of the Code is the responsibility of State and Territory and New Zealand enforcement agencies and, for imported food at the Australian border, the Department of Agriculture.

In developing food standards, FSANZ's primary objectives are the protection of public health and safety, the provision of adequate information relating to food to enable consumers to make informed choices and the prevention of misleading or deceptive conduct.

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

In December 2003, the Forum (then the Australia and New Zealand Food Regulation Ministerial Council) approved a policy guideline (at [Attachment 1](#)) to assist FSANZ in developing a new standard for country of origin labelling. The policy guideline proposed that country of origin labelling of food should be mandatory for the purposes of enabling consumers to make informed choices, and should apply to whole foods, not individual ingredients.

Country of origin labelling requirements

Standard 1.2.11 (Country of origin labelling) of the Code sets out the requirements for mandatory country of origin labelling. A copy of Standard 1.2.11 can be found at [Attachment 2](#).

Standard 1.2.11 does not apply in New Zealand. It also does not apply to food offered for immediate consumption where the food is sold by restaurants, canteens, schools, caterers, self-catering institutions, prisons, hospitals or other similar institutions e.g. nursing homes.

Packaged foods

Standard 1.2.11 requires packaged foods to be labelled with a statement on the package:

- that identifies the country where the food was made, produced or grown; or
- a statement that identifies the country where the food was manufactured or packaged and to the effect that the food is constituted from ingredients imported into that country or from local and imported ingredients.

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

- 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
- packaged and displayed in an assisted service display cabinet.

Unpackaged foods

Unpackaged fruit, vegetables, nuts, spices, herbs, fungi, legumes, seeds, fish¹, pork, beef, veal, lamb, hogget, mutton and chicken (or a mix of these foods) must 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.

Other unpackaged foods for retail sale do not require country of origin labelling.

While the Code specifies which foods must have country of origin labelling, Australian Consumer Law of the *Competition and Consumer Act 2010* requires that the statements are not false or misleading, and provides 'safe harbour' defences for country of origin statements such as 'produce of' and 'made in'.

Legibility

Standard 1.2.9 – Legibility Requirements of the Code requires all statements mandated by the Code including country of origin statements to be legible and prominent such as to afford a distinct contrast to the background, and must be in the English language. The statement provided for unpackaged foods must be at least 9 mm in height, unless the food is in a refrigerated assisted service display cabinet, in which case it must be at least 5 mm in height. There are no conditions for the height of country of origin statements on packaged foods.

Geographical indicators

Standard 2.7.5 – Spirits of the Code, prohibits a geographical indication being used for a spirit unless the spirit has been produced in the country, locality or region indicated. A geographical indication is defined as an indication either expressly made or implied:

- (a) *which identifies a spirit as originating in a particular country, locality or region*
- (b) *where a given quality, reputation or other characteristic of the spirit is essentially attributable to its origin in that particular country, locality or region.*

¹ Fish includes any of the cold-blooded aquatic vertebrates and aquatic invertebrates including shellfish, but does not include amphibians and reptiles.

The standard also prohibits a spirit being sold under a geographical indication where the spirit is lawfully exported under the geographical indication from the indicated territory, locality or region but bottled in another territory, locality or region. This prohibition does not apply if the alcohol by volume concentration for the spirit is at a level permitted under the applicable laws for that geographical indication.

History of the development of country of origin labelling requirements

Prior to 2005, country of origin labelling was regulated by a transitional Standard (Standard 1.1A.3) in the Code which incorporated the country of origin labelling requirements of the former Australian *Food Standards Code* and the New Zealand *Food Regulations 1984*, both of which have now been revoked. The transitional Standard did not apply in New Zealand, other than certain requirements that related to wine and wine products.

Between May 2004 and October 2005, FSANZ undertook an assessment of country of origin labelling requirements (Proposal P292 – Country of origin labelling of food) in response to the policy guidance developed by Food Ministers. The resultant Standard, Standard 1.2.11, was gazetted in December 2005. At the time, the Standard applied to most packaged foods and unpackaged seafood, pork and fruit and vegetables, sold in Australia. In December 2012, amendments to Standard 1.2.11 to extend mandatory country of origin labelling requirements to unpackaged beef, sheep and chicken meat were gazetted. These amendments came into effect in June 2013.

Although the Code applies to both Australia and New Zealand, Standard 1.2.11 does not apply to New Zealand. This is because New Zealand decided not to introduce mandatory country of origin labelling of food and varied from Standard 1.2.11 in accordance with the *Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System*. Grape wine made in New Zealand does, however, require country of origin labelling due to the *New Zealand Wine Regulations 2006*.

Feasibility study into extending country of origin labelling to principal fruit and vegetable products packaged together

In October 2005, FSANZ received a request from the Australian Government to examine the feasibility, benefits and costs of extending country of origin labelling to each of the two (or less) principal whole fruit or vegetable produce packaged together, including where other incidental ingredients are part of such a product. In addition, it was requested that fruit and vegetable juices and soya milks be within the scope of the report.

The feasibility study involved five major components:

- an economic, benefit-cost analysis undertaken by the Centre for International Economics (CIE)
- an analysis of compliance costs utilising the Office of Small Business Costing Tool
- a review of research regarding consumer perceptions of country of origin labelling
- extensive consultation with stakeholders including two rounds of public comment on documents detailing the key issues
- an assessment of the extension to country of origin labelling against the Council of Australian Government (COAG) Principles of Good Regulation.

Results of the study clearly showed that the costs outweigh the benefits, and that:

- there would be significant costs associated with the proposed extension to country of origin labelling.
- the extension to country of origin labelling would have an adverse impact on Australian industry.
- all consumers would pay more for a small, incremental increase in information that would be used by only a small proportion of consumers in making purchases.
- no evidence has been found to suggest that consumers would be prepared to pay more for the incremental increase in country of origin labelling that is proposed.

The analysis also indicated that the proposed extension of country of origin labelling was potentially inconsistent with a number of the COAG Principles of Good Regulation. For example, the extension to country of origin labelling did not represent the minimum regulation required to achieve the desirable outcomes and would be likely to adversely impact on competition.

The study found no evidence of systemic market or information failure that justified regulatory action. The full feasibility report can be found on the FSANZ website at the following link: http://www.foodstandards.gov.au/code/proposals/documents/CoOL_Feasibility_Report_%2028_March_2006.pdf

FSANZ's country of origin work arising from the Labelling Review

In 2009, the Forum (then the Australian and New Zealand Ministerial Council for Food Regulation) agreed to a comprehensive independent review of food labelling law and policy. An expert panel, chaired by Dr Neal Blewett, AC, undertook the review and the panel's final report, *Labelling Logic – Review of Food Labelling Law and Policy (2011)* was publicly released in January 2011. The Forum provided a response to *Labelling Logic* in December 2011. Further information about the review can be found at the following link: [Food Labelling - Review of Food Labelling Law and Policy](#)

Recommendation 40 in *Labelling Logic* was that *Australia's existing mandatory country-of-origin labelling requirements for food be maintained and be extended to cover all primary food products for retail sale.*

The response from the Forum (December 2011) noted recommendation 40 and requested FSANZ to continue its existing process for the proposal to extend Australia's country of origin labelling requirements to unpackaged beef, veal, lamb, hogget, mutton and chicken and to develop a further proposal to extend country of origin labelling to all other primary food products.

The proposal extending mandatory country of origin labelling to unpackaged beef, sheep, and chicken meat was finalised in December 2012.

FSANZ is currently working on an analysis to identify the remaining primary food products for retail sale in Australia that do not require country of origin labelling and that would be affected if recommendation 40 were to be fully implemented. This analysis includes consideration of the extent of importation into Australia of the identified primary food products as well as the volume of identified primary food products for retail sale, whether it is displayed for retail sale in an unpackaged state and whether any country of origin labelling is provided voluntarily. FSANZ expects to provide this analysis to the Forum in mid-2014 and subject to its consideration, will undertake further work if required.

Attachment 1

Australia New Zealand Food Regulation Ministerial Council Policy Guidelines Country of Origin Labelling of Food

SCOPE/ AIM

To develop regulatory principles for country of origin labelling to ensure that Food Standards Australia New Zealand (FSANZ) meets its statutory obligations under Section 10 of the *Food Standards Australia New Zealand Act 1991*. In meeting its statutory obligations, it is recognised that country of origin labelling is not a public health and safety issue.

HIGH ORDER PRINCIPLES

- Ensure that consumers have access to accurate information regarding the contents and production of food products.
- Ensure that consumers are not misled or deceived regarding food products.
- Be consistent with, and complement, Australia and New Zealand national policies and legislation including those relating to fair-trading and industry competitiveness.
- Be cost effective overall, and comply with Australia and New Zealand obligations under international agreements while not being more trade restrictive than necessary.

SPECIFIC PRINCIPLES

- Balance the benefit to consumers of country of origin labelling with the cost to industry and consumers of providing it.
- Ensure consistent treatment of domestic and imported food products with regard to country of origin requirements.

POLICY GUIDANCE

In developing a new standard for country of origin labelling in the *Food Standards Code*, FSANZ should ensure that:

- the standard is consistent with the High Order and Specific Principles;
- country of origin labelling of food is mandatory for the purpose of enabling consumers to make informed choices;
- country of origin labelling applies to the whole food, not individual ingredients; and
- consideration is given to the existing temporary Australian standard (Standard 1.1A.3).

Attachment 2

STANDARD 1.2.11
COUNTRY OF ORIGIN LABELLING

(Australia only)

Purpose and commentary

This Standard sets out the requirements for country of origin labelling for packaged foods and certain unpackaged foods. These requirements do not apply in New Zealand.

Table of Provisions

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| 1 | Application |
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Clauses

1 Application

(1) This Standard does not apply to a food that is offered for immediate consumption where the food is sold by –

- (a) restaurants; or
- (b) canteens; or
- (c) schools; or
- (d) caterers or self-catering institutions; or
- (e) prisons; or
- (f) hospitals; or
- (g) other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

(2) Subclause 1(2) of Standard 1.1.1 does not apply to this Standard.

2 Country of origin labelling for packaged food

(1) Subclause (2) applies to food in a package.

(2) The food must be labelled with –

- (a) a statement on the package that identifies the country 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.

(3) However, subclause (4) applies to food in a package if –

- (a) the food is unprocessed fruit and vegetables, whether whole or cut; and
- (b) the food is displayed for retail sale; and
- (c) the package does not obscure the nature or quality of the food.

(4) The food must be labelled with a statement on the package or in connection with the display of the package which –

- (a) identifies the country or countries of origin of the fruit and vegetables; or
- (b) indicates that the fruit and vegetables are a mix of local and imported foods; or
- (c) indicates that the fruit and vegetables are a mix of imported foods.

3 Country of origin labelling for certain unpackaged food

(1) Food listed in the Table to this subclause that is displayed for retail sale other than in a package must be labelled with a statement on or in connection with the display of the food which –

- (a) identifies the country or countries of origin of the food; or
- (b) indicates that the food is a mix of local and imported foods; or
- (c) indicates that the food is a mix of imported foods.

Table to subclause 3(1)

Column 1	Column 2
Item	Food
1	Fish, including fish that has been mixed or coated with one or more other foods
2	Pork
3	Fruit and vegetables
4	Beef
5	Veal
6	Lamb
7	Hogget
8	Mutton
9	Chicken
10	A mix of foods mentioned in this Table

(2) In this clause, a food listed in Column 2 of the Table to subclause 3(1) includes a food that has been –

- (a) cut, filleted, sliced, minced or diced; or
- (b) pickled, cured, dried, smoked, frozen or preserved by other means; or
- (c) marinated; or
- (d) cooked.

(3) In addition to the requirements of Standard 1.2.9, the statement required by subclause (1) must be at least 9 mm in height, unless the food is in a refrigerated assisted service display cabinet, in which case it must be at least 5 mm in height.