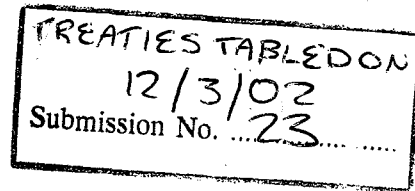




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Ms Shelley McInnis
Inquiry Secretary
Joint Standing Committee on Treaties
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Dear Ms McInnis

Inquiry into Amendments to Australia New Zealand Joint Food Standards Agreement

This letter is a submission to the Joint Standing Committee on Treaties inquiry into treaties tabled on 12 March 2002. This submission provides further information on questions raised at the hearing held on 13 May 2002.

Introductory Remarks

I would like to emphasise that the current Exchange of Letters between Australia and New Zealand constitutes an amendment to the existing Australia New Zealand Joint Food Standards Agreement. Under the existing Agreement, a joint Australia New Zealand Food Standards System is already in place. The primary purpose of the amendments is to update the Agreement so that it correctly describes the new structural arrangements for food regulation in Australia and New Zealand that were formally agreed to by the Council of Australian Governments in November 2000. The new structural arrangements provide for an expanded Ministerial Council, a new Food Regulation Standing Committee, new advisory committees on implementation matters and the renaming of the statutory authority, the Australia New Zealand Food Authority (ANZFA) to become Food Standards Australia New Zealand (FSANZ). Under the previous system ANZFA developed standards which were then decided on by the Australia New Zealand Food Standards (Ministerial) Council (ANZFSC). Under the new system, ANZFA will have the authority to approve standards and notify these to the Ministerial Council; the Ministerial Council will have the power to reject amend or seek review of any such standard.

The types of issues for which standards may be developed under the Australia New Zealand Food Standards System are listed in the Scope (Article 3) of the original Agreement. This list of issues remains unchanged by the current amendments. The food standards themselves are not contained within the Agreement but within the Food Standards Code. The Food Standards Code is currently in a transition period between the original Australian Food Standards Code and the new joint Australia New Zealand Food Standards Code. This transition was already envisaged in the original Agreement and the amendments simply update the language used to describe how this will occur.

Requested information

Members of the Committee sought further information regarding:

1. nutrition labelling, including nutrition information panels and a model nutrition label (TR27-28).
2. list of issues within the scope of the Joint Food Standards Agreement, for which there is not yet agreement between Australia and New Zealand but are being worked on during the transition period to the new joint Australia New Zealand Food Standards Code (TR28).
3. 'regulations, such as health standards, in relation to smoked types of cheese or cheeses, which some cottage industries are developing, that use unpasteurised milk.' (TR 29).
4. regulations that could affect wild game meats such as kangaroo and wild boar (TR30).
5. a copy of the Food Standards Code was also requested (TR28).

I am also providing information to clarify:

6. the role of the Jurisdictions in the food regulatory system.
7. the relative roles and responsibilities of the Department of Health and Ageing and the Australia New Zealand Food Authority (ANZFA).
8. the Standards development and setting process that FSANZ will follow under the new food regulatory system and how this will differ from the current ANZFA system.

I have already provided by fax 3 pages from the Proof Committee Hansard with minor corrections.

1. Nutrition Labelling and General Food Labelling Requirements

The ANZFA Fact Sheet *The joint Australia New Zealand Food Standards Code* (**Attachment 1**) provides a brief overview of food standards changes introduced by the new Code and explains the transition arrangements during the two year phase in period. This fact sheet also briefly summarises the new requirement for nutrition information panels, amongst other labelling requirements.

A second Fact Sheet *Overview of Food Labelling* (**Attachment 2**) summarises the other general labelling and information requirements of the new Code. A colour poster *Food Labels What Do They Mean?* (**Attachment 3**) provides a complete example of how the new labelling would appear on an actual product.

Further more detailed information on food labelling is provided in the ANZFA publications, *Overview of Food Labelling: User guide to Food Labelling and Other Information Requirements* (**Attachment 4**) and *Nutrition Information Requirements: User guide to Standard 1.2.8- Nutrition Information Requirements* (**Attachment 5**).

2. Food Standards Code Transitional Issues

When the Australia New Zealand Food Standards Council (ANZFSC) adopted the Australia New Zealand Food Standards Code in November 2000, it was agreed a number of issues would be addressed during the transition period. Resolution of some of these issues is required because of different arrangements in place at the moment in the two countries. Work is now underway to finalise these issues and the majority will be finalised prior to December 2002. It is envisaged that where transition matters have not been able to be finalised, new transitional provisions will be incorporated into Volume 2 of the Food Standards Code to ensure current regulations continue. The complete list of issues is as follows:

1. Dietary supplements
2. Infant formula
3. Medical foods
4. Country of origin
5. Microbiological standards
 - a. Listeria standards
 - b. Other
6. Sports foods
7. Advisory milk statement
 - a. Whole milk
 - b. Modified milks
8. Fortification -
 - a. Vit D & spreads
 - b. Thiamine & bread
 - c. Iodine
9. Health Claims
10. CoPoNC (Code of Practice on Nutrition Claims)
11. Kava
12. Fluoride in food
13. Food additives
 - a. Urea in wine
14. Spirits labelling
15. Warning / advisory statements - Bee products/Royal Jelly
16. Omnibus for minor changes
 - a. Mixed foods - NZ food Act

3. Cheese Standards

Cheese processing requirements are regulated under Standard 1.6.2 Processing Requirements (an Australia only Standard) and Standard 2.5.4 Cheese. These Standards are included in the Food Standards Code (Volume 2) copies of which have been provided with this submission.

With the exception of three raw milk Swiss cheeses specified in Standard 2.5.4 (Gruyere, Sbrinz and Emmental) it is not permissible to import or manufacture cheeses using unpasteurised milk (unless other relevant provisions of the Food Standards Code are satisfied).

Unless otherwise specified in Standard 2.5.4, Standard 1.6.2 requires that milk and milk

products for cheese manufacture must be heat treated by either pasteurisation (at 72° C for at least 15 seconds) or thermisation (at 62° C for at least 15 seconds, providing the final product is stored at least 90 days from the date of manufacture). Pasteurisation or thermisation reduces the level of bacteria in the product. An assessment of the equivalence of alternative treatments is required for health and safety reasons. This requirement is in both Volume 1 and Volume 2 of the Food Standards Code and has been in place for over 15 years.

The three raw milk Swiss cheeses (Gruyere, Sbrinz and Emmental) were approved in 1999 after a rigorous safety assessment following an application from the Swiss Government. These cheeses are specifically listed in Standard 2.5.4. These cheeses must be manufactured using a method that achieves an equivalent level of safety to the heat treatment methods specified in Standard 1.6.2 as well as complying with the documentation specified in Clause 3 of Standard 2.5.4.

Anyone wanting to import or manufacture a type of raw milk cheese that does not meet the requirements of the Food Standards Code would need to make an application to ANZFA (or FSANZ) to permit their product by including it in Standard 2.5.4. The application would need to provide adequate safety information for their product and document appropriate Hazard Analysis Critical Control Point (HACCP) controls or a system that delivers an equivalent safety outcome.

4. Wild Game Meats such as kangaroo and wild boar

In the new joint Australia New Zealand Food Standards Code, Standard 2.2.1 Meat and Meat Products outlines the definitions, compositional and labelling requirements for meat and meat products. Game meats are dealt with separately under the 'Australia only' Standard 1.6.2 Processing Requirements.

The definition of 'meat' was not changed when food standards were reviewed and updated for the new Code. The definition for meat includes 'buffalo, camel, cattle, deer, goat, hare, pig, poultry, rabbit or sheep, *slaughtered other than in a wild state*' (my italics). Under separate State, Territory or New Zealand legislation, other farmed meats may also be permissible.

Standard 1.6.2 defines Game meat as 'any bird, buffalo, camel, deer, donkey, goat, hare, horse, kangaroo, rabbit, pig, possum or wallaby that has been *slaughtered in the wild state*' (my italics). This standard also requires that game meat either be subjected to governmentally approved post mortem inspection or obtained in accordance with a governmentally approved quality assurance program. Standard 1.6.2 retained these provisions from the old Code.

Primary Production Standards are not currently the responsibility of ANZFA. The 'governmentally approved' inspection and quality control programs mentioned in Standard 1.6.2 refer to activities carried out under the Australian State and Territory, and New Zealand, Meat Acts. Currently, game meat production in Australia is regulated under the "Hygienic production of game meat for human consumption" standard (Australia only) which was developed in 1997 by the Meat Standards Committee under the former Standing Committee on Agriculture and Resource Management (SCARM) and the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ).

However, once the amendments to the Joint Food Standards Agreement and associated legislation take effect, FSANZ will be responsible for Primary Production Standards which will include the development of a food safety standard for the hygienic production of both meat and game meat. ANZFA is currently working with the Meat Standards Committee and consulting with the Food Regulation Standing Committee (FRSC) and its Development and Implementation Sub-Committee (DISC) on the logistics of taking up this new role.

FSANZ's statutory processes for developing and amending applications and proposals will be followed during its review of the primary production standards. Industry and businesses will be consulted and their views considered as part of this process.

5. Food Standards Code

Five complete (520 pages) copies of the Food Standards Code (Volume 2) have been provided with this submission. At the end of the transition period, Volume 2 will become known as the joint Australia New Zealand Food Standards Code and Volume 1, the 'old' code which currently coexists with Volume 2, will be repealed.

6. The Role of the Jurisdictions

Both the existing and the new food regulatory systems are a cooperative arrangement between the Commonwealth, the Australian States and Territories and New Zealand. Under both the existing and the new systems each jurisdiction has one vote on the Ministerial Council (there are 10 jurisdictions and thus 10 votes in total).

An intergovernmental Food Regulation Agreement between the Commonwealth and the Australian States and Territories was signed on 3 November 2000. This Food Regulation Agreement sets out the roles and responsibilities of the Commonwealth and the States and Territories under the new food regulatory system (**Attachment 6**). It should be noted that the Australian States and Territories are responsible for the enforcement of food standards in Australia: therefore the Food Regulation Agreement includes an undertaking by the States and Territories to take any necessary legislative steps to enable food standards to be enforceable under each jurisdiction's individual legislation (Clause 23).

The amendments to the Joint Food Standards Agreement with New Zealand will further advance the implementation of the Food Regulation Agreement and also enable New Zealand to continue its participation in the Joint Food Standards System as the changes to the system are introduced.

It should be noted that New Zealand only has one vote out of the ten on the Ministerial Council: this explains why both the Agreement and the amended Agreement contain special provisions to either develop separate standards for Australia and New Zealand (in the case of health and safety or environmental reasons) or to 'opt out' of a standard altogether (in the case of exceptional health, safety, third country trade, environmental or cultural factors) (Annex D). As Australia has nine out of the ten votes on the Ministerial Council it was not necessary to include an 'opt out' provision for Australia. Also, any Minister on the Council is able to request a review of a Standard in accordance with Annex C of the amended Agreement.

7. DoHA and ANZFA/FSANZ Roles and Responsibilities

DoHA's Role

The Department of Health and Ageing (DoHA) (specifically, its Food Policy Section) is responsible for implementing the Council of Australian Governments' food regulatory reforms under the 2000 Food Regulation Agreement. This means that DoHA has been instrumental in arranging amendments to the *Australia New Zealand Food Authority Act 1991* and the current amendments to the Joint Food Standards Agreement with New Zealand. DoHA is also responsible for providing the Secretariat to the Australia New Zealand Food Regulation Ministerial Council, Standing Committee and the Development and Implementation Sub-Committee (DISC).

When the new system commences, the new Australia and New Zealand Food Regulation Ministerial Council will decide on policy guidelines based on advice from the new Food Regulation Standing Committee (FRSC) comprising senior government officials from the Commonwealth, New Zealand, and the Australian States and the Territories. The Department has an ongoing leadership role in development of these policy guidelines – its Secretary chairs the Food Regulation Standing Committee and the Minister for Health and Ageing chairs the Ministerial Council.

The role of ANZFA and FSANZ

ANZFA is a statutory authority operating under the *Australia New Zealand Food Authority Act 1991*. Under the *Australia New Zealand Food Authority Amendment Act 2001*, which will come into effect once the Joint Food Standards Agreement is amended, ANZFA is to be renamed as Food Standards Australia New Zealand (FSANZ). FSANZ will operate under the amended and renamed Act: the *Food Standards Australia New Zealand Act 1991*.

Under the current arrangements, ANZFA develops food standards in accordance with the objectives, principles and procedures set out in its Act. The ANZFA Board makes recommendations on these standards to the Ministerial Council which then decides whether to accept, reject or amend them.

Under the new arrangements, FSANZ will continue to develop food standards under the amended Act. However, one of the principal changes to the food regulatory system is the implementation of new arrangements for the development of policy guidelines to apply to food standards. Previously all food standards policies were developed by the ANZFA Board, having regard to the broader policies and objectives of government.

Once developed, the FSANZ Board will have responsibility for approving standards and variations to standards then notifying the Ministerial Council of any approval. The Ministerial Council may initially seek a review of any standard notified to it by FSANZ and ultimately has the power to accept, reject or amend proposed new standards or amendments. Further information on the changes are in the Fact Sheet *The change to Food Standards Australia New Zealand (Attachment 7)*.

8. Standards Development Process

ANZFA's current processes and decision framework are set out in its publication *ANZFA's Standards Decision Making Framework: A Report to ANZFSO*. A diagram summarising the ANZFA process is on page 12 of that publication (**Attachment 8**).

FSANZ will largely follow the same process and decision framework as ANZFA. This is summarised in the diagram provided as **Attachment 9**. The main differences are the need to take Ministerial Policy Guidelines into account before standards are developed and the renaming of the assessment stages for the processing of applications (from outside bodies) and ANZFA/FSANZ proposals to change food standards. The stages previously known as preliminary assessment, full assessment and inquiry will become known as Initial, Draft and Final Assessments respectively. The high level of consultation and the use in most cases of all three levels of assessment will be retained.

Yours sincerely



Carolyn Smith
Acting Assistant Secretary, Preventive Services and Food Policy Branch
27 May 2002