



Dissenting report – Ms Kelly O’Dwyer MP, Mr Bruce Billson MP, Mr Scott Buchholz MP, Mr Tony Smith MP, Liberal Party of Australia

As Opposition Members, we observe that Government members on the Committee have recommended that that House not pass the Food Standards Amendment (Truth in Labelling-Palm Oil) Bill 2010.

Government members are now echoing the revised position of the Executive, following a remarkable ‘about face’ by the Government after Government Senators allowed the passage of the amended Bill and transmission to the House.

The Government's previous constructive and collaborative approach was abruptly ended by the 23 August declaration that the Government would no longer support the passage of the amended Bill.

With the amended Bill not opposed by either the Government or Opposition in the Senate, it was open to the House to believe that the Government was inclined to facilitate progress of the Bill.

The Senate inquiry report into the original Bill and evidence before this Committee on the amended Bill highlighted the various intergovernmental and multi-jurisdictional processes and arrangements through which the provisions would need to be progressed for the Bill’s enactment and enforcement.

On the basis of the position adopted by the Government in the Senate and overtures to the Opposition about working cooperatively to canvass possible alternative approaches to achieving the amended Bill's objectives, Opposition Members pursued the examination of the Bill in good faith.

Opposition Members have been keen to draw out possible and potentially more certain avenues to efficiently and effectively deliver information to consumers about palm oil in products they were considering purchasing.

A number of constructive proposals were provided in evidence about transitional arrangements, encouragement of voluntary initiatives, reducing possible implementation costs, and alignment opportunities with current labelling and consumer information requirements. There is little value in evaluating these proposals as possible amendments to the Bill given the Government's revised posture.

The major shift in the Government's position to now abandon any willingness to constructively engage in the advancement of the amended Bill's provisions and to work to cooperatively overcome legitimate areas of concern has undermined any prospect of its successful and effective implementation.

It is clear to Opposition Members that without Government sponsorship and supporting advocacy by Ministers in the relevant and complex intergovernmental fora, there is no prospect of bringing the amended Bill's provisions into operation.

The Committee has not received any evidence that points to a clear and certain way parliament alone can satisfy the procedural pre-conditions and Commonwealth obligations within intergovernmental arrangements the Bill's provisions seek to operate within.

Opposition members are particularly concerned about trade-related considerations raised in evidence to the Committee.

While this aspect was briefly touched upon in the Senate inquiry report, evidence presented to the Committee has highlighted Australia's trade obligations as a legitimate area of public policy concern. Evidence to the Committee highlights a number of trade-related risks and Sections 2.47 to 2.60 (inclusive) of the Committee's report addresses some of these issues.

Opposition members recognise that it may well be arguable that the Bill offends World Trade Organization rules by indirectly advancing the interests of local vegetable oil production that may substitute for palm oil imports, and may invoke potentially harmful retaliatory action and lengthy dispute resolution processes.

It is clear to Opposition members that the trading partner consultations required to accompany proposals for regulatory change under the 1995 food regulation treaty with New Zealand and more broadly in relevant international fora of the kind proposed by the Bill have not been undertaken.

Again, in order to satisfy essential and desirable trade-related obligations that are pre-conditions for the passage of the Bill in compliance with international commitments, Government engagement and advocacy is required that it is now simply unwilling to provide.

In their recommendation, government members are seeking to rely upon the yet-to-be-agreed response of the Australian and New Zealand Food Regulation

Ministerial Council to the Report, *Labelling Logic: Review of Food Labelling Law and Policy*, to address the policy objective of providing consumer information about the presence of palm oil in products they may consider purchasing.

The Ministerial Council is scheduled to meet on 9 December 2011 to consider its response to the *Labelling Logic* report recommendations, including a specific recommendation (No. 12) that addresses the specific listing of palm oil as a separate ingredient where it is an 'added fat' to a food product.

Opposition members support the Ministerial Council giving serious consideration to recommendation 12 of the report and keenly await the agreed response and timetable for action arising from the *Labelling Logic* report.

Only time will prove whether the faith Government Members are placing in the actual response and course of action agreed to by the Ministerial Council is well placed, and if the ambition of the Bill in seeking to provide consumer information about the presence of palm oil in products being considered for purchase is fulfilled.

In this light, Opposition members make the following recommendations:

Recommendation 1

The House of Representatives not proceed with the Food Standards Amendment (Truth in Labelling-Palm Oil) Bill 2010 at this time because the legislation requires active sponsorship and positive facilitation that the Government is now unwilling to provide despite not opposing the amended Bill in the Senate.

Recommendation 2

The House should note that the Government now asserts that it has an alternative and superior approach to addressing palm oil labelling already under consideration, namely:

"On 9 December 2011 the Australian and New Zealand Food Regulation Ministerial Council will consider a whole-of-government response to the Report, *Labelling Logic: Review of Food Labelling Law and Policy*.

Recommendation 12 of this reports states:

- That where sugars, fats or vegetable oils are added as separate ingredients in a food, the terms 'added sugars' and 'added fats' and/or 'added vegetable oils' be used in the ingredient list as the generic term, followed by a bracketed list

(e.g., added sugars (fructose, glucose syrup, honey), added fats (palm oil, milk fat) or added vegetable oils (sunflower oil, palm oil)).

The committee supports the Ministerial Council giving serious consideration to recommendation 12 of the *Labelling Logic: Review of Food Labelling Law and Policy* report.”

Recommendation 3

The House defer further consideration of the Food Standards Amendment (Truth in Labelling-Palm Oil) Bill 2010 until after the Australian and New Zealand Food Regulation Ministerial Council has determined its response to the *Labelling Logic: Review of Food Labelling Law and Policy* report and the extent to which the response addresses the objectives of the Bill.

Ms Kelly O'Dwyer, MP
Deputy Chair

Mr Bruce Billson, MP

Mr Scott Buchholz, MP

Mr Tony Smith, MP