

**SUBMISSION TO SENATE STANDING COMMITTEE
ON COMMUNITY AFFAIRS**

**INQUIRY INTO THE *FOOD STANDARDS AMENDMENT (TRUTH IN LABELLING
LAWS – PALM OIL) AMENDMENT BILL 2009***

The role of FSANZ in the food regulatory system

Food Standards Australia New Zealand (FSANZ) is an independent statutory authority set up by the Australian Government under the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act). FSANZ is a part of the joint food regulatory system which applies throughout Australia and in New Zealand. Our role is to develop and maintain the food standards which make up the *Australia New Zealand Food Standards Code* (the Code).

At the apex of the food regulatory system sits the Australia and New Zealand Food Regulation Ministerial Council (the Council). The Council is made up of Ministers from each of the States and Territories, the Commonwealth and a Minister from New Zealand. The Council has responsibility for setting food regulatory policy and for general oversight of the food regulatory system.

The Code contains standards relating to the production, processing, composition and labelling of food. The focus of the Code is on public health and safety and ensuring consumers have adequate information to enable informed choice. The standards in the Code are developed under the FSANZ Act, which has a number of requirements relating to public consultation. FSANZ's processes are open and transparent, and we rely on input from industry, consumers and governments to inform our standards development work.

The Code does not have any legal effect of itself. Rather, the *Food Regulation Agreement* between the States, Territories and Commonwealth of Australia provides that the States and Territories will adopt or incorporate into State or Territory law the standards which FSANZ develops. The Australia Government and New Zealand Government have also entered into an agreement by which New Zealand also adopts the majority of FSANZ's food standards.

Under the *Food Regulation Agreement* and the FSANZ Act, the Council is the final step in the standards development process. The Council's acceptance of a standard leads to its inclusion in the Code and is the trigger for its adoption into State and Territory law.

FSANZ's involvement in the labelling of palm oil in food

The Code contains a standard requiring labelling and naming of ingredients in foods. In general terms, Standard 1.2.4 – Labelling of Ingredients requires that oils be qualified as to whether the source is animal or vegetable. Certain vegetable oils including peanut, soybean or sesame oils need to be specifically declared in the label so as to inform consumers who may have an allergy to these foods. Palm oil is currently labelled as a vegetable oil and there are no other specific requirements as to the labelling of palm oil.

The *Food Standards Amendment (Truth in Labelling Laws – Palm Oil) Amendment Bill* (the Bill) will require the development and approval of a labelling standard requiring palm oil to be specifically listed as an ingredient of a food. If the palm oil has been certified as sustainable in accordance with the regulations, the Bill allows 'CS Palm Oil' to be shown on the label to indicate its sustainable origins.

The Bill will not produce a standard that obtains the force of law

The FSANZ Act is enabling legislation designed to provide FSANZ with powers to develop food standards within the Commonwealth/State/Territory government framework of the *Food Regulation Agreement* and the Australian Government treaty with New Zealand. The FSANZ Act has, of itself, no effect on State or Territory food law due to Constitutional restraints. The adoption, and monitoring and enforcement of the standard is dependant on States and Territories placing the standard into their law, meeting the conditions of their agreement with the Commonwealth.

Therefore, a standard developed in accordance with the proposed section 16B of the Bill is not likely to become law as States and Territories are not bound to adopt something that is developed outside of the current framework.

The FSANZ Act, the *Food Regulation Agreement* and our treaty with New Zealand do not contemplate a process whereby the Commonwealth can unilaterally impose a law on the States, Territories and New Zealand.