



**Submission to the Senate Community Affairs
inquiry into the**

**FOOD STANDARDS AMENDMENT (TRUTH IN
LABELLING – PALM OIL) BILL 2009**

Institute of Public Affairs
Tim Wilson

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1.0 INTRODUCTION

The Senate Community Affairs Committee is currently considering Senator Xenophon, Brown and Joyce's co-sponsored *Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2009*.

The proposed Bill would require the separate labelling of palm oil and privately certified sustainable palm oil (CS palm oil) on food product labels. It is argued by its proponents that because the production of palm oil may lead to some environmental degradation, consumers may wish to reserve the right to not consume products which include palm oil or non-certified sustainable palm oil, and that without separate labelling they will be denied that choice.

The purpose of the Bill is “to ensure that consumers have clear, accurate information about the inclusion of palm oil in foods; and ... to encourage the use of certified sustainable palm oil in order to promote the protection of wildlife habitat”.¹

The Committee has outlined that it is interested in consideration of:

1. The rights of consumers to be provided with accurate and truthful information to enable them to make an informed choice about the food products they are eating and purchasing
2. That allowing palm oil to be listed as “vegetable oil” is misleading to consumers
3. That palm oil is considered high in saturated fats and consumers should be made aware if it is used in food they are eating for health reasons
4. That the impact of palm oil production on wildlife, specifically Orang-utan's in South East Asia is significantly unless it is done sustainably
5. That sustainable palm oil can be produced with low impact on the environment and wildlife and with better labour laws on plantations
6. That manufacturers should be encouraged to use sustainable palm oil in their production process and can subsequently use the statue of “Certified Sustainable Palm Oil” as a business benefit²

This submission will address these points and assess the root claims of environmental degradation caused by palm oil, the merits of claims made by proponents of the Bill and the possible impacts of its introduction.

¹ Parliament of Australia, 2009, “Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2009”, Australian Senate, Commonwealth of Australia, Canberra, Australia, at http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s739_first/toc_pdf/0924520.pdf;fileType=application/pdf

² Community Affairs Legislation Committee, 2009, “Reason for referral of the bill and information relating to the reference: Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2009”, Australian Senate, Commonwealth of Australia, Canberra, Australia, at http://www.aph.gov.au/senate/committee/clac_ctte/food_standards_truth_in_labelling_palm_oil_09/tor.pdf

2.0 THE RIGHTS OF CONSUMERS TO BE PROVIDED WITH ACCURATE AND TRUTHFUL INFORMATION TO ENABLE THEM TO MAKE AN INFORMED CHOICE ABOUT THE FOOD PRODUCTS THEY ARE EATING AND PURCHASING

Consumers are currently provided with information on food products under the Food Standards Code administered by Food Standards Australia and New Zealand.

Informed choices are made based on relevant generic information provided to consumers that they readily identify and understand.

The recent argument for separately labelling palm oil from other vegetable oils is based on political opposition to palm oil, not on the basis of an absence of truthful or accurate information.

FSANZ has previously rejected a request to consider separately labelling palm oil as an ingredient on food products on the basis that food labelling does “not extend to environmental issues”.³

By introducing separate labelling for palm oil as distinct from other vegetable oils, FSANZ would be achieving a political objective, unless all oils currently listed as “vegetable oils” were listed separately.

3.0 THAT ALLOWING PALM OIL TO BE LISTED AS “VEGETABLE OIL” IS MISLEADING TO CONSUMERS

Currently under the Labelling of Ingredients Standard 1.2.4 of FSANZ’s Foods Standards Code, “fats or oils” must only “be qualified as to whether the source is animal or vegetable”.⁴ Under the standard there is no specific definition of “vegetable” and palm oil is appropriately considered a vegetable oil, as opposed to an animal oil.

Under the code, specific oils need to be separately labelled if the oil is “peanut, soy bean or sesame” because of the specific health-related allergies that may arise from the consumption of these products.⁵

However, the campaign to introduce specific labelling of palm oil is not motivated by health-related issues, but rather it is politically motivated.

Until political opposition developed there was no consumer action against palm oil being listed as a “vegetable oil”. And there is currently no consumer action to label other “vegetable oils” separately even if they do not come from vegetables.

³ Food Standards Australia and New Zealand, 2009, “Palm oil and food”, Commonwealth of Australia, Barton, Australia, at

<http://www.foodstandards.gov.au/scienceandeducation/factsheets/factsheets2009/palmoilandfood.cfm>

⁴ Food Standards Australia and New Zealand, 2010, “Labelling of Ingredients”, Food Standards Code, Standard 1.2.4, Issue 110 (R), Commonwealth of Australia, Barton, Australia at

http://www.foodstandards.gov.au/_srcfiles/Standard_1_2_4_Labelling_of_Ingred_v115.pdf

⁵ Food Standards Australia and New Zealand, 2010, “Labelling of Ingredients”, Food Standards Code, Standard 1.2.4, Issue 110 (R), Commonwealth of Australia, Barton, Australia at

http://www.foodstandards.gov.au/_srcfiles/Standard_1_2_4_Labelling_of_Ingred_v115.pdf

To claim that palm oil should be listed separately is also inconsistent with other Australian standards. Under currently labelling requirements the terms “fat” includes a long list of potential fat sources including “animal fat, beef fat, butter fat, copha, lard, milk solids, palm oil, shortening, tallow and vegetable oil”.⁶

Further, separately labelling palm oil for political reasons would be inconsistent with internationally accepted definitions for vegetable oil, such as the Organisation for Economic Cooperation and Development’s definition that “vegetable oil is defined as rapeseed oil (canola), soybean oil, sunflower seed oil and palm oil”.⁷

4.0 THAT PALM OIL IS CONSIDERED HIGH IN SATURATED FATS AND CONSUMERS SHOULD BE MADE AWARE IF IT IS USED IN FOOD THEY ARE EATING FOR HEALTH REASONS

Currently saturated fat contents are required to be labelled on food products.

Any additional labelling targeting saturated fat contents of palm oil would likely result in consumers thinking that palm-oil free products contain less, or ‘safer’, levels of saturated fats irrespective of its source or whether that is the case.

5.0 THAT THE IMPACT OF PALM OIL PRODUCTION ON WILDLIFE, SPECIFICALLY ORANG-UTAN’S IN SOUTH EAST ASIA IS SIGNIFICANT UNLESS IT IS DONE SUSTAINABLY AND THAT SUSTAINABLE PALM OIL CAN BE PRODUCED WITH LOW IMPACT ON THE ENVIRONMENT AND WILDLIFE AND WITH BETTER LABOUR LAWS ON PLANTATIONS

Recent political campaigns against palm oil have been driven by Australia's publicly funded zoos in conjunction with international environmental activist organisations, who claim that wildlife and orang-utans are dying as a consequence of the Indonesian and Malaysian palm oil industries. The claim is that forest used as a home by wildlife and orang-utans is being cleared for the production of palm oil.

But palm oil is not responsible for deforestation. Poverty is.

Deforestation occurs around the world as poor farmers seek to lift themselves out of poverty through the production of commodities that are in demand in domestic and international markets.

As the world’s largest traded oil, palm oil is in heavy demand throughout the developing and developed world because it is a high-yield, trans-fat free, Vitamin A-rich, low-cost oil.⁸

Without palm oil, deforestation would still occur in the developing world. But instead of palm oil, growers would simply produce different crops, such as replacement oil seeds. Such a scenario would

⁶ Food Standards Australia and New Zealand, 2010, “Reading labels for healthier eating: Ingredients list”, Commonwealth of Australia, Barton, Australia, at

<http://www.foodstandards.gov.au/consumerinformation/labellingoffood/interactivelabelpost3614.cfm>

⁷ Organisation for Economic Cooperation and Development, 2006, “Glossary of statistical terms: Vegetable oil”, Paris France, at <http://stats.oecd.org/glossary/detail.asp?ID=2862>

⁸ UNICEF, 2004, “Vitamin and mineral deficiency: A global damage assessment report”, United Nations, New York

lead to expanded environmental degradation and deforestation because of the relatively low-yield of alternatives.

Based on data from Oil World⁹ palm oil remains the most efficient oil seed. Even one of palm oil's critics and sponsors of the Bill, Senator Bob Brown, acknowledges that "oil palm is the most productive oil seed".¹⁰

Table 1 | Comparison of oil yield (tonne / hectare)

Oil	Tonnage per hectare
Soybean oil	0.37
Sunflower oil	0.5
Rapeseed oil	0.75
Oil palm	4.09

Source: Oil World, 2010, "Oil World Annual 2020", Hamburg, Germany

Table 1 outlines the yield potential of four major competing oils and clearly identifies the high-yield potential of palm oil. Should alternative oils be grown, more land would be needed to produce an equivalent volume of oil to replace palm oil, likely resulting in further deforestation.

Unfortunately food manufacturers and celebrities are not heeding this message. In a recent episode of Channel 10's popular program, *The 7pm Project*, a panellist stated "I get worried when I hear somebody say ... there's no viable alternative (to palm oil)."¹¹

But French retailer, Groupe Casino, has found an alternative and has announced that it will be replacing palm oil for rapeseed and sunflower oils in more than 200 different food products.¹² But as a result of Groupe Casino's decision up to nine times more land will be needed to produce the same oil quantity to replace palm oil as an ingredient in food products. The consequence is that to achieve the perceived benefits of not using palm oil Groupe Casino is likely to use more of the world's scarce resources to produce the same (or smaller) quantities of products. It is hardly a win for the environment.

Palm oil has become the most stigmatised product for causing deforestation. But as the Stern Review on the economics of climate change found, less a fifth of cleared forest in Indonesia was to support the palm oil industry, and less than a third in Malaysia.¹³

Many environmental activists have made specious headline claims on deforestation, but a deeper reading of their material exposes that "it is unlikely that virgin forests are still cleared for palm oil

⁹ Oil World, 2010, "Oil World Annual 2020", Hamburg, Germany

¹⁰ Brown, B., 2009, "Second reading speech: Food Standards Amendment (Truth in labelling – Palm oil) Bill 2009", Australian Senate, Commonwealth of Australia, Canberra, Australia, at [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=;db=;group=;holdingType=;id=;orderBy=;page=;query=BillId_Phrase:"s739"%20Dataset:hansardr,hansards%20Title:"second%20reading";querytype=;rec=0;resCount=](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=;db=;group=;holdingType=;id=;orderBy=;page=;query=BillId_Phrase:)

¹¹ The 7pm Project, Channel 10, 5th April 2010

¹² Groupe Casino, 2010, "Groupe Casino undertakes to discontinue the use of palm oil in its own brand products, 200 palm oil-free products by 2010 and all products in the long term", Paris, France, at <http://www.groupe-casino.fr/IMG/file/COM-100325en.pdf>

¹³ Greig-Gran, M., 2008, "The cost of avoiding deforestation: Update of the report prepared for the Stern Review of the Economics of Climate Change", International Institute for Environment and Development, London, United Kingdom, at <http://www.iied.org/pubs/pdfs/G02489.pdf>

expansion in Malaysia on any significant scale, merely because most forests have already been logged, at least once”.¹⁴

6.0 THAT MANUFACTURERS SHOULD BE ENCOURAGED TO USE SUSTAINABLE PALM OIL IN THEIR PRODUCTION PROCESS AND CAN SUBSEQUENTLY USE THE STATUS OF “CERTIFIED SUSTAINABLE PALM OIL” AS A BUSINESS BENEFIT

Under the Bill there is an explicit provision that “regulations made for the propose of certifying the sustainability of palm oil must reflect the criteria determined for that purpose by the Roundtable on Sustainable Palm Oil”.¹⁵

The basis for a perceived business benefit of using “certified sustainable palm oil”, is that consumers apply an increased sense of value to certified sustainable palm oil over non-certified sustainable palm oil or other oils. In arguing the case for certified sustainable palm oil labelling Senator Brown said in his second reading speech of the Bill that:

*“Once palm oil is labelled, consumers will be able to drive a market for properly certified sustainable palm oil. This Bill encourages the use of certified sustainable palm oil. Sustainable palm oil uses land which has already been cleared, preventing further destruction of orang-utan habitat. A similar phenomenon has been witnessed with labelling scheme as Fair Trade, Rainforest Alliance and Marine Stewardship Council”.*¹⁶

But what Senator Brown has missed is that these labelling standards are not government-mandated, but private certification marks – a form of trademark. A market for a private certification of palm oil already exists. If products are not being labelled as such it is because consumers don’t value the mark, not because there is the absence of a market.

Private certification marks are radically different from labelling requirements because they involve a form of certification at production and through the supply chain to the consumer to meet high standards. These certification marks secure credibility by providing an overall concept of value to consumers that they understand, generally to achieve political objectives.

The value held in these certification marks is also a result of the significant resources dedicated to their promotion and the voluntarily nature that they are entered into.¹⁷ Legally requiring private certification for palm oil destroys the voluntary nature of the certification because government will become involved.

¹⁴ Friends of the Earth International, 2008, “Malaysian palm oil – green gold or green wash: A commentary on the sustainability claims of Malaysia’s palm oil lobby, with a special focus on the state of Sarawak”, October, i114, p30

¹⁵ Parliament of Australia, 2009, “Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2009”, Australian Senate, Commonwealth of Australia, Canberra, Australia, at http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s739_first/toc_pdf/0924520.pdf;fileType=application/pdf

¹⁶ Brown, B., 2009, “Second reading speech: Food Standards Amendment (Truth in labelling – Palm oil) Bill 2009”, Australian Senate, Commonwealth of Australia, Canberra, Australia, at [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=;db=;group=;holdingType=;id=;orderBy=;page=;query=BillId_Phrase:"s739"%20Dataset:hansardr,hansards%20Title:"second%20reading";querytype=;rec=0;resCount=](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=;db=;group=;holdingType=;id=;orderBy=;page=;query=BillId_Phrase:)

¹⁷ Wilson, T., “Fair trade and voluntarism”, in Macdonald, K. & Marshall, S. (Eds), 2010, “Fair trade, corporate accountability and beyond: Experiments in global justice”, Ashgate Publishing, Surrey, United Kingdom

Further, should the Australian government recognise RSPO standards as the basis for affording labelling of sustainable palm oil as “CS palm oil”, the Australian government will be:

1. Endorsing a private certification scheme that will act to deliberately crowd out alternative sustainable palm oil schemes that could develop; and
2. Outsourcing the legal definition of sustainable palm oil to a private provider that can, at any time, change its standards irrespective of the views of the Australian government.

7.0 OTHER CONCERNS

7.1 Unsustainable campaigns for the world's poor

Political campaigns against palm oil have a cost – economic instability for the roughly one million Indonesians and Malaysian workers who depend on the industry for their livelihoods and the millions of people dependent on it as a dietary staple.

As an agriculture crop principally grown in developing countries, small holder palm oil farmers include some of the world's poorest producers. And they are not insignificant contributors to the industry. In Malaysia small holders account for up to 40 per cent of the total area of planted oil palm and in Indonesia it is 45 per cent.¹⁸ And the industries in both countries support hundreds of thousands of workers. That is one of the reasons why the Asian Development Bank finances palm oil projects, whose success ensures that it delivers strong repayment rates on loans from funded projects.¹⁹

7.2 Backdoor protectionism

It is also concerning to see an increasing protectionist tone from opponents of importing palm oil. In a recent interview Susan Anderson from the Australian Heart Foundation highlighted that they would like to see a reduction in palm oil consumed by Australians and to replace it “with healthier *Australian* oil seeds” (emphasis added).²⁰

The Committee should be aware that it is against the spirit and legal obligations of the World Trade Organisations agreement, particularly the Technical Barriers to Trade Agreement, for Australia to enact deliberately protectionist labelling obligations against an imported product.

¹⁸ Vermeulen, S. & Goad, N., 2006, “Towards better practice in smallholder palm oil production”, International Institute for Environment and Development, p4

¹⁹ Asian Development Bank, 1999, “Project performance audit report on the West New Britain small holder development project”, at <http://www.adb.org/Documents/PERs/pe526.pdf>

²⁰ Miletic, D., 2010, “Health group calls for palm oil labelling”, The Age, at <http://www.theage.com.au/national/health-group-calls-for-palm-oil-labelling-20100416-sk1h.html>

8.0 CONCLUSIONS

It is understandable that the public, consumers and politicians consider the environmental consequences of production as part of their total concept of value in a consumer product. Palm oil is one of thousands of examples that could be used to demonstrate increasing consumer awareness of a broader concept of value beyond the traditional marker – price.

But the best way to ensure consumers can discern between products based on diverse concepts of value is through private certification and the representation of certification marks that consumers understand and identify with, not additional mandated labelling.

Private certification marks achieve the same level, if not more, awareness with consumers and ensure that consumers continue to have choice about whether they want environmental concerns included as part in their concept of value.

Doing so also provides a level of choice for producers based on where they wish to position their product in the marketplace.

Instead of regulating for palm oil to be listed separately as either “palm oil” or “CS palm oil”, it would be more appropriate for food manufacturers to be able to label their products as either “palm oil free” or be voluntarily certified. Doing so respects the choices of consumers and avoids the introduction of politically motivated labelling requirements.

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10.0 ABOUT THE INSTITUTE OF PUBLIC AFFAIRS

The Institute of Public Affairs, founded in 1943, is the world's oldest free market think tank. The IPA is a not-for-profit research institute based in Melbourne, Australia with staff and associates based around Australia.

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- Energy
- Housing
- Industrial relations
- Taxation
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11.0 ABOUT THE AUTHOR | TIM WILSON

Tim is Director of the Intellectual Property and Free Trade Unit at the Institute of Public Affairs.

He is regularly published in Australian and international newspapers and journals, including the *Wall Street Journal Asia* and *Europe*, the *Australian Financial Review* and *The Australian*. He is a frequent commentator on television and radio, including as panellist on ABC1's current affairs program *Q&A*, ABC2's *News Breakfast* and Triple J's radio program *Hack*.

In 2009 Tim was recognised by Australia's national daily broadsheet, *The Australian*, as one of the ten emerging leaders of Australian society. He is currently a member of the Department of Foreign Affairs and Trade's IP Industry Consultative Group and serves on the steering committee of the Sydney Opera House's *Festival of Dangerous Ideas*.

Tim has completed a Masters of Diplomacy and Trade majoring in International Trade from the Monash Graduate School of Business and a Bachelor of Arts majoring in Public Policy and Politics from Monash University. He has also completed a Diploma of Business and the IP Summer School at the World Intellectual Property Organization Academy. He has also completed the Global Health Diplomacy Executive Program and the WTO, International Trade and Development Program at the Institut de Hautes Études Internationales et du Développement, Geneva. He is also a trained carbon accountant.

He is currently completing a Graduate Diploma of Energy and the Environment (Climate Science and Global Warming) from Perth's Murdoch University and the University of Melbourne's Asialink Leaders Program.