

8 November 2012

[26-12]

Review Report – Proposal P1011

Country of Origin Labelling – Unpackaged Meat Products

On 20 June 2012, the COAG Legislative and Governance Forum on Food Regulation¹ (Forum) asked Food Standards Australia New Zealand (FSANZ) to review its decision in relation to Proposal P1011 – Country of Origin Labelling – Unpackaged Meat Products.

FSANZ was required to review the decision by 31 October 2012.

FSANZ has reviewed its decision and re-affirmed the approval of the draft variations to Standards 1.2.1 – Application of Labelling and Other Information Requirements and the Australia only Standard 1.2.11 – Country of Origin Requirements, that were recommended as a result of P1011.

¹ Previously known as the Australia and New Zealand Food Regulation Ministerial Council

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Supporting documents

The following documents used to prepare this report are available on the FSANZ website at <http://www.foodstandards.gov.au/foodstandards/proposals/proposalp1011country4791.cfm>.

SD1 Approval Report – Proposal P1011 – Country of Origin Labelling – Unpackaged Meat Products

1. Executive summary

1.1 Review request

On 20 June 2012, the Forum requested that FSANZ review Proposal P1011 – Country of Origin Labelling – Unpackaged Meat Products (P1011). P1011 recommended two draft variations, one to Standard 1.2.1 – Application of Labelling and Other Information Requirements and one to the Australia only Standard 1.2.11 – Country of Origin Requirements (to extend mandatory country of origin labelling to unpackaged beef², sheep³ and chicken meat). The Forum’s request for a review did not specify which draft variation was subject to the review. The FSANZ Board therefore reviewed both draft variations.

The grounds for the review were that:

- it places an unreasonable cost burden on industry and consumers as demonstrated by the conclusion of the Regulation Impact Statement
- it is difficult to enforce or comply with in practical and resource terms as it places an additional cost burden on jurisdictions for negligible benefit
- it is not consistent with the existing policy guidelines set by the Ministerial Council that provide only for a “mixed food” labelling option for food displayed in a mix and sold in that mix
- it does not provide adequate information to make informed choice because of the drafting anomaly in the existing Standard that allows for food displayed in a mix but available for individual sale to be displayed under the label “mix of local and imported”.

1.2 Matters addressed in the review

The FSANZ Board reviewed the proposal as requested, having regard to the grounds for review, the requirements of the FSANZ Act and the available evidence.

After reviewing the matter, the FSANZ Board decided to reaffirm its earlier decision to approve the draft variations to Standards 1.2.1 and 1.2.11. The FSANZ Board considered that the grounds for the review request do not warrant a change to its previous decision for the following reasons:

Forum issue	Summary of FSANZ’S response
Places an unreasonable cost burden on industry and consumers	<p>The FSANZ Board recognised the regulation impact statement (RIS) conclusion that the status quo be retained, because it is uncertain if the benefits associated with mandatory labelling (which are largely intangible) would sufficiently exceed the costs (which are likely to be relatively low) to create a positive net present value for society as a whole. However, the FSANZ Act requires the Board to also consider ‘other relevant matters’ when assessing a proposal, they were:</p> <ul style="list-style-type: none">• community concern about the inability to readily identify the origin of unpackaged beef products and research indicating country of origin information is important to Australian consumers (refer to Supporting Document 1 of the Approval Report)• information available indicates that stakeholders in Australia are generally supportive of mandatory country of origin labelling• mandating the additional country of origin labelling requirements

² Beef includes veal for the purpose of this report. This is reflected in the draft replacement standard.

³ Sheep includes lamb, hogget and mutton for the purpose of this report. This is reflected in the draft replacement standard.

Forum issue	Summary of FSANZ'S response
	<p>would ensure consumers are provided with improved access to this information consistently across the retail sector and correct a perceived anomaly in the Code whereby unpackaged fish and pork are required to have country of origin labelling while the other major meat staples are not</p> <ul style="list-style-type: none"> • in response to the recommendations of <i>Labelling Logic: Review of Food Labelling Law and Policy (2011)</i>, the Forum agreed to ask FSANZ to continue with P1011 to extend country of origin labelling to unpackaged beef, sheep and chicken meat. <p>The recent report by the Senate Select Committee on Australia's Food Processing Sector inquiry supports FSANZ's view about the existence of the above-mentioned community concerns. That report is discussed in section 5.4(d) below.</p> <p>The Board's view remains that there is sufficient likelihood of an overall benefit to the community when improved access to information and the importance of consumer trust and confidence are balanced against the relatively small industry implementation costs.</p>
Is difficult to enforce or comply with in practical and resource terms	The RIS prepared for the original decision canvassed the issues of additional cost burden on jurisdictions and the potential benefits of the recommended variations. How the Board took the RIS and these issues into account is described above. Nothing identified or raised during the review warrants a change in that position.
Is not consistent with the existing policy guidelines set by the Ministerial Council	<p>Under the FSANZ Act, the FSANZ Board must 'have regard to' policy guidelines when making or reviewing a draft variation but is not bound to follow policy guidelines. The Board noted that the policy guideline for country of origin labelling does not specifically mention or proscribe the labelling of mixed food.</p> <p>On this basis, the approved variations to Standards 1.2.1 and 1.2.11 developed as a result of P1011 are not inconsistent with the policy guideline.</p>
Does not provide adequate information to make informed choice	<p>The FSANZ Board considers that the recommended variations to extend mandatory country of origin labelling to unpackaged beef, sheep, and chicken meat will ensure that information about the country of origin of the meat will be provided to consumers (i.e. identifying the country or countries of origin of the food, or that the food is a mix of local and imported, or that the food is imported).</p> <p>The matter raised by the Forum regarding labelling of foods of mixed origin has broader application than P1011 and therefore could be considered in the future through an alternative means whereby the issues involved can be fully investigated and canvassed with a broader range of stakeholders who may be affected by changes to the existing country of origin labelling requirements.</p>

2. Introduction

In March 2010, the Australian Government asked FSANZ to consider extending mandatory country of origin labelling to address community concern about the lack of country of origin information and to remove the inconsistency in applying country of origin labelling across unpackaged meat, particularly beef. P1011 was subsequently prepared. When initially determining the scope of the Proposal, FSANZ decided to address major species of unpackaged meats in the Australian food supply and included unpackaged sheep and chicken meat in addition to beef.

On 18 April 2012, the FSANZ Board approved draft variations to extend mandatory country of origin labelling to unpackaged beef, sheep and chicken meat. The reasons for approval are in Section 4 of the P1011 Approval Report (see Supporting Documents on page 1 of this report).

On 20 June 2012, the Forum requested a review in relation to P1011. FSANZ understood this to mean a request to review the variations to Standard 1.2.1 and 1.2.11 that were recommended as a result of P1011, and proceeded on the basis of this understanding.

3. Grounds for review

The Forum requested that FSANZ review its decision in relation to P1011 on the following grounds:

- it places an unreasonable cost burden on industry and consumers as demonstrated by the conclusion of the Regulation Impact Statement
- it is difficult to enforce or comply with in practical and resource terms as it places an additional cost burden on jurisdictions for negligible benefit
- it is not consistent with the existing policy guidelines set by the Ministerial Council that provide only for a “mixed food” labelling option for food displayed in a mix and sold in that mix
- it does not provide adequate information to make informed choice because of the drafting anomaly in the existing Standard that allows for food displayed in a mix but available for individual sale to be displayed under the label “mix of local and imported”.

The review request can be found at

[http://www.health.gov.au/internet/main/publishing.nsf/Content/6DFC62307E5C0FD4CA2578A1000409F1/\\$File/Notice%20of%20Publication%20of%20Request%20for%20a%20Review%20of%20P1011.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/6DFC62307E5C0FD4CA2578A1000409F1/$File/Notice%20of%20Publication%20of%20Request%20for%20a%20Review%20of%20P1011.pdf).

4. Decision

The FSANZ Board re-affirmed its approval to vary Standards 1.2.1 and 1.2.11. The variations are at Attachment A.

5. Reasons for decision

5.1 Conducting the review

FSANZ individually contacted representatives from most state and territory Governments, to clarify the Forum’s grounds for review. Jurisdictions confirmed that key points behind the review request were:

- The RIS concluded that the status quo be retained (i.e. the current requirements for country of origin labelling be retained in Standard 1.2.11 with no mandatory requirement for country of origin labelling for unpackaged beef, sheep and chicken meat). Three jurisdictions argued that the draft variations to the Standard should not therefore have been approved. The burden on the meat industry of the extended labelling requirement was noted in particular.
- Standard 1.2.11 affords retailers the option of displaying a number of foods of mixed origin together and labelling this display as a 'mix of local and imported foods' even if the foods are available for purchase as individual food items. For example, Australian and imported lemons can be mixed and displayed together with a label stating the lemons are a mix of local and imported food.

5.2 Response to grounds for review

5.2.1 Places an unreasonable cost burden on industry or consumers

The rationale for the review request stated: *it places an unreasonable cost burden on industry and consumers as demonstrated by the conclusion of the Regulation Impact Statement.*

5.2.1.1 Analysis and conclusion

During the analysis of P1011, it was considered that as several major retailers are already implementing voluntary country of origin labelling for unpackaged meats, the costs related to extending mandatory country of origin labelling are not likely to be substantial.

In making the decision to approve the variations to Standards 1.2.1 and 1.2.11, the FSANZ Board recognised that the RIS concluded that the status quo should be retained. This was on the basis of the RIS's view that it is uncertain whether the benefits associated with mandatory labelling (which are largely intangible) would sufficiently exceed the costs (which are likely to be relatively low) to create a positive net present value for society as a whole, because:

- imports are not expected to grow from the current low levels
- there are already significant levels of voluntary labelling and hence benefits.

After reconsidering the above and the matters to which the Board must have regard to under the FSANZ Act, the Board's view remained that there is sufficient likelihood of an overall benefit to the community when improved access to information and the importance of consumer trust and confidence are balanced against the relatively small industry implementation costs. The other matters that the Board took into account in addition to the RIS are outlined in sections 5.3 and 5.4 below.

5.2.2 Is difficult to enforce or comply with in both practical or resource terms

The rationale for the review request stated: *it is difficult to enforce or comply with in practical and resource terms as it places an additional cost burden on jurisdictions for negligible benefit.*

5.2.2.1 Analysis and conclusion

The decision RIS (Attachment D to the Approval Report – refer to Supporting Documents on page 1 of this Report) included the additional cost burden on jurisdictions and the potential benefits of the recommended variations.

Section 5.2.1.1 above describes how the Board took the conclusion of the RIS and other matters into account in making its decision.

Nothing has been identified or raised during the review to warrant a change in the Board's position.

5.2.3 Is not consistent with existing policy guidelines set by the Ministerial Council

The rationale for the review request stated: *it is not consistent with the existing policy guidelines set by the Ministerial Council that provide only for a "mixed food" labelling option for food displayed in a mix and sold in that mix.*

The policy guideline for country of origin labelling of food is at [http://www.foodstandards.gov.au/srcfiles/Country_of_Origin_Labelling_Policy_Guideline\(Dec2003\).pdf](http://www.foodstandards.gov.au/srcfiles/Country_of_Origin_Labelling_Policy_Guideline(Dec2003).pdf).

5.2.3.1 Analysis and conclusion

FSANZ considers the recommended variations to Standards 1.2.1 and 1.2.11 developed as a result of P1011 are not inconsistent with the policy guideline, noting the policy guideline does not specifically mention or proscribe the labelling of mixed food.

We also note that FSANZ is not bound to follow policy guidelines. The FSANZ Act requires instead that FSANZ must 'have regard to' it as one of a number of prescribed matters when making or reviewing a draft variation.

5.2.4 Does not provide adequate information to enable informed choice

The rationale for the review requested stated: *it does not provide adequate information to make informed choice because of the drafting anomaly in the existing Standard that allows for food displayed in a mix but available for individual sale to be displayed under the label "mix of local and imported".* Further information about this is provided section 5.1 above.

5.2.4.1 Analysis and conclusion

In the context of this review, it is considered that the recommended variations provide for adequate information to enable informed choice.

The extension of mandatory country of origin labelling to unpackaged beef, sheep, and chicken meat will ensure that information about the country of origin of the meat will be provided to consumers (i.e. identifying the country or countries of origin of the food, or that the food is a mix of local and imported, or that the food is imported).

Consumers will have the same level of information as that provided to purchasers of packaged meats of the same type, and will be equally able to make an informed choice. The matter raised by the Forum regarding labelling of foods of mixed origin has broader application than P1011 as it goes to the intent of the Standard as it currently applies to unpackaged foods in general. P1011 only considered unpackaged beef, sheep and chicken meat. FSANZ could consider this matter in the future through an alternative means whereby the issues involved can be fully investigated and canvassed with a broader range of stakeholders who may be affected by changes to the existing country of origin labelling requirements.

5.3 Addressing FSANZ's objectives for standards-setting

Subsection 18(1) of the FSANZ Act lists three objectives that FSANZ must have regard to when conducting a review of a draft Standard, as follows.

5.3.1 Protection of public health and safety

There were no public health and safety issues related to the draft variations to Standards 1.2.1 and 1.2.11.

5.3.2 The provision of adequate information relating to food to enable consumers to make informed choices

This objective was relevant to this review – refer to section 5.2.4 above for information relating to this objective in the context of P1011. For the reasons outlined above, the Board remains satisfied that the draft variations will provide consumers with adequate information to make an informed choice.

5.3.3 The prevention of misleading or deceptive conduct

There were no issues relating to misleading and deceptive conduct identified during this review.

5.3.4 Subsection 18(2) considerations

Subsection 18(2) of the FSANZ Act lists a range of matters that FSANZ must have regard to when conducting a review of a draft standard, as follows:

- (a) *the need for standards to be based on risk analysis using the best available scientific evidence*
The best available scientific evidence was used during the assessment of P1011. To assist the analysis, FSANZ commissioned a literature review, by an academic expert, on consumer responses to country of origin labelling.
- (b) *the promotion of consistency between domestic and international food standards*
A number of Australia's trading partners have country of origin labelling regulations for food; however, there is considerable variation in the requirements of individual countries, making direct comparisons difficult. No specific issues have been identified and no World Trade Organization (WTO) member nation provided comment in response to the notification to the WTO. FSANZ will notify the WTO member nations when variations to Standards 1.2.1 and 1.2.11 are approved.
- (c) *the desirability of an efficient and internationally competitive food industry*
The proposed variations are not expected to have a negative impact on the efficiency or international competitiveness of the food industry.
- (d) *the promotion of fair trading in food*
The current exemption from country of origin labelling of unpackaged beef, sheep and chicken meat has not been raised as an issue for fair trading in food and therefore this matter has not been considered in this instance.
- (e) *any written policy guidelines formulated by the Ministerial Council*
Refer to section 5.2.3.

5.4 Section 59 considerations

Subsection 59(2) of the FSANZ Act provides that FSANZ must have regard to certain matters when assessing a proposal. The subsection does not apply to assessments undertaken for the purposes of a review. However, one can reasonably argue that the matters listed in that subsection remain relevant in a review of a standard under section 84 of the Act. As such, FSANZ may, subject to the considerations outlined above, also have regard to these relevant matters when undertaking the review. The matters listed in subsection 59(2) are:

- (a) whether costs that would arise from a food regulatory measure developed or varied as a result of the proposal outweighed the direct and indirect benefits to the community, Government or industry that would arise from the development or variation of the food regulatory measure**

Section 5.2.1.1 above discusses the costs and benefits of the recommended variations and how these were taken into account by the FSANZ Board when making its decision to approve the variations to Standards 1.2.1 and 1.2.11. The benefits of the proposed measures are also considered below at paragraph 5.4(d).

The FSANZ Board noted that it is unclear if the benefits associated with mandatory labelling (which are largely intangible) would sufficiently exceed the costs (which are likely to be relatively low) to create a positive net present value for society as a whole.

However, the Board's view remains that there is the sufficient likelihood that the draft variations will result in an overall benefit to the community when improved access to information and the importance of consumer trust and confidence are balanced against the relatively small implementation and regulatory costs.

- (b) whether other measures (available to the Authority or not) would be more cost-effective than a food regulatory measure developed or varied as a result of the proposal**

The option of a non-regulatory approach such as a guideline or voluntary code of practice developed by industry was considered at the approval stage. However, this option was not recommended as overseas experience indicates that a voluntary scheme is unlikely to lead to universal adoption of country of origin labelling unless the industry is provided with sufficient incentives to do so. Furthermore, it is expected that there would be a cost associated with monitoring industry compliance with a voluntary scheme and that this cost would be borne by industry.

- (c) any relevant New Zealand standards**

There are no relevant New Zealand standards. The country of origin labelling standard is an Australia-only Standard.

- (d) any other relevant matters**

The Board took into consideration the following relevant matters when making the decision to approve the variations:

- community concern about the inability to readily identify the origin of unpackaged beef products leading to the request from the Australian Government for FSANZ to consider extending mandatory country of origin labelling

- research that indicated country of origin information is important to Australian consumers and is valued especially in the context of fresh food products such as fresh meat (the consumer research report is Supporting Document 1 of the Approval Report – refer to Supporting Documents on page 1 of this report)
- information available indicates that industry, governments and related agencies, non-government organisations and consumers in Australia are generally supportive of mandatory country of origin labelling (refer to section 3.2.2 of the Approval Report – see Supporting Documents on page 1 of this report)
- mandating the additional country of origin labelling requirements would:
 - ensure consumers are provided with improved access to this information consistently across the retail sector, providing less opportunity for market failure
 - correct a perceived anomaly in the Code whereby unpackaged fish and pork are required to have country of origin labelling while the other major meat staples – beef, sheep and chicken meat – are not required to have country of origin labelling
- in response to the recommendations of *Labelling Logic: Review of Food Labelling Law and Policy (2011)*, the Forum agreed to ask FSANZ to continue with P1011 to extend country of origin labelling to unpackaged beef, sheep and chicken meat.

After undertaking the review, the Board remains satisfied that the above are relevant and support the making of the draft variations.

The FSANZ Board noted that, subsequent to preparation of the review request by the Forum, a report from the Select Committee on Australia's Food Processing Sector's Inquiry into Australia's Food Processing Sector was tabled in the Senate (on 16 August 2012). The terms of reference for the Select Committee included that it inquire into, and report by 30 June 2012 on matters including:

- (a) the competitiveness and future viability of Australia's food processing sector in global markets;
- (b) the regulatory environment for Australia's food processing and manufacturing companies including but not limited to:...(iii) food labelling.

With regard to the Committee's view that there would be merit to reforming the current country of origin labelling laws to make them more transparent, the report states:

4.86 In this sense, there should be a level playing field across all foods. The current anomalies in country of origin labelling requirements, which allow some foods to escape such labelling altogether, appear illogical and are unacceptable. The committee endorses recommendation 40 of the Blewett Review, which recommended expanding country of origin labelling requirements to cover all primary food products for retail sale.

4.87 The committee welcomes the government's response to the recommendation and urges FSANZ to expand the Food Standards to align with the Blewett Review's recommendation 40. In the event that FSANZ does not extend Food Standard 1.2.11 to at least cover unpackaged beef, veal, lamb, hogget, mutton and chicken, the committee believes that it should give substantive reasons for its decision. This would assist the community to understand FSANZ's priorities in setting country of origin labelling standards.

Recommendation 7 in this report was: *The committee recommends that the government expand the application of food labelling requirements to require all primary food products for retail sale to display their country of origin, in accordance with recommendation 40 of the Blewett Review.*

The Board considers that this supports its view about the existence of the previously discussed community concerns and values.

6 Implementation

The amendments to the Code will come into effect six months from the date of gazettal. This will provide industry, particularly small businesses, with sufficient time to implement the necessary systems required to provide country of origin information for unpackaged beef, sheep and chicken meat at the retail level.

Attachments

- A. Approved variations to the *Australia New Zealand Food Standards Code*
- B. Explanatory Statements

Attachment A – Approved variations to the *Australia New Zealand Food Standards Code*



Standard 1.2.11 – Country of Origin Labelling

The Board of Food Standards Australia New Zealand gives notice of the making of this Standard under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on **6 months from gazettal**.

Dated TO BE COMPLETED

Standards Management Officer
Delegate of the Board of Food Standards Australia New Zealand

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

1	Application
2	Country of origin labelling for packaged food
3	Country of origin labelling for certain unpackaged food

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.



Food Standards (Proposal P1011 – Country of Origin Labelling – Unpackaged Meat Products – Consequential) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date specified in clause 3 of this variation.

Dated TO BE COMPLETED

Standards Management Officer
Delegate of the Board of Food Standards Australia New Zealand

1 Name

This instrument is the *Food Standards (Proposal P1011 – Country of Origin Labelling – Unpackaged Meat Products – Consequential) Variation*.

2 Variation to Standards in the *Australia New Zealand Food Standards Code*

The Schedule varies the Standards in the *Australia New Zealand Food Standards Code*.

3 Commencement

These variations commence **6 months after gazettal**.

SCHEDULE

- [1] **Standard 1.2.1** is varied by omitting clause 2(2)(g), substituting –
- (g) subclauses 2(3) and 2(4), and clause 3 of Standard 1.2.11 – Country of Origin Labelling; and
- [2] **Standard 1.2.11** is repealed.

Attachment B – Explanatory Statements

Standard 1.2.11 – Country of Origin Requirements

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

FSANZ prepared Proposal P1011 to consider varying the Australia only Standard 1.2.11 to extend country of origin labelling to include unpackaged beef (includes veal), sheep (lamb, hogget and mutton) and chicken meat. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation.

On 20 June 2012, the COAG Legislative and Governance Forum on Food Regulation⁴ (Forum) asked FSANZ to review its decision in relation to Proposal P1011. That Proposal resulted in two recommended draft variations, one to Standard 1.2.1 and one to the Australia only Standard 1.2.11. The Forum's request for a review did not specify which draft variation was subject to the review. FSANZ therefore reviewed both draft variations.

FSANZ has reviewed its decision and re-affirmed the approval of the draft variations to Standards 1.2.1 and 1.2.11.

Following consideration by the Forum, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the standard or draft variation of a standard.

Section 94 of the FSANZ Act specifies that a standard, or a variation of a standard, in relation to which a notice is published under section 92 is a legislative instrument, but is not subject to parliamentary disallowance or sunseting under the *Legislative Instruments Act 2003*.

2. Purpose and operation

Standard 1.2.11 requires packaged foods and unpackaged pork, fish, fruit and vegetables to be labelled with country of origin information. The purpose of the variation is to extend the application of the country of origin labelling requirements to unpackaged beef, sheep and chicken meat, which are the most common types of meat consumed by Australians. This will be done by inserting a replacement Standard 1.2.11.

The replacement Standard will commence 6 months after gazettal.

⁴ Previously known as the Australia and New Zealand Food Regulation Ministerial Council

3. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1011 included one round of public consultation following an assessment and preparation of a draft replacement standard. An Assessment Report that included the draft replacement standard was released on 18 July 2011 for a six-week consultation period.

A Regulation Impact Statement was required because the variations to Standard 1.2.11 are likely to have an impact on business and individuals.

Following the Forum's review request FSANZ individually contacted representatives from most state and territory jurisdictions, to clarify the Forum's grounds for review.

4. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

5. Variations

In addition to extending country of origin labelling requirements to unpackaged beef, sheep and chicken meat, the replacement standard also introduces a new option to label a packaged food with a statement identifying the country where the food is grown. This option was included for consistency with provisions contained in the *Competition and Consumer Act 2010* dealing with country of origin representations.

The replacement standard has been structured to improve readability and an editorial note which contained outdated references to the *Trade Practices Act 1974* has been removed.

5.1 Clause 1

Clause 1 makes it clear that food sold to the public for immediate consumption by a number of specifically mentioned institutions will not be required to comply with the standard. Clause 1 also provides that subclause 1(2) of Standard 1.1.1 does not apply to the standard.

5.2 Clause 2

Clause 2 contains the country of origin labelling requirement for packaged food. It provides the option of labelling a package of food with a statement identifying the country where the food was made, produced or grown, or with a statement identifying the country where the food was manufactured or packaged. If the label identifies the country where the food was manufactured or packaged, the label must also contain a statement to the effect that the food is constituted from ingredients imported into that country or from local and imported ingredients.

In subclause 2(3), the words 'unprocessed fruit and vegetables, whether whole or cut' replace the previous wording of 'fresh whole or cut fruit and vegetables' to remove any interpretational ambiguities as to the meaning of the word 'fresh'. 'Fruit and vegetables' is defined in Standard 2.3.1.

The options are different for unprocessed fruit and vegetables which are displayed for retail sale in a package which does not obscure the nature or quality of the fruit and vegetables.

In this case, subclause 2(4) requires the package to be labelled with a statement on the package, or in connection with the display of the package, which either identifies the country or countries of origin of the fruit and vegetables, or indicates that the fruit and vegetables are a mix of local and imported foods, or a mix of imported foods.

5.3 Clause 3

Clause 3 contains the country of origin labelling requirement for unpackaged foods, and extends the requirement to beef, veal, lamb, hogget, mutton and chicken.

Subclause 3(1) consolidates a number of requirements previously contained within the Table to subclause 2(2) of Standard 1.2.11.

Subclause 3(2) makes it clear that all unpackaged food listed in Column 2 of the Table to subclause 3(1) must be labelled with the required country of origin statement, even if the food has been processed in one of a number of specified ways.

The requirement to label a food in accordance with subclause 3(1) is not intended to apply to a food which has undergone such a degree of processing that the food is no longer capable of being characterised as one of the foods listed under Column 2 to the Table. For example, foods such as salami and sausages that contain pork should not be characterised as 'pork'. However, subclause 3(2) makes it clear that marinated beef steaks should be characterised as 'beef' for the purposes of clause 3.

Subclause 3(3) specifies the required size of the country of origin statement required by subclause 3(1).

Food Standards (Proposal P1011 – Country of Origin Labelling – Unpackaged Meat Products - Consequential) Variation

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for developing or varying food regulatory measures.

FSANZ prepared Proposal P1011 to consider varying Standard 1.2.11 to extend country of origin labelling to include unpackaged beef (includes veal), sheep (lamb, hogget and mutton) and chicken meat. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation.

On 20 June 2012, the COAG Legislative and Governance Forum on Food Regulation⁵ (Forum) asked FSANZ to review its decision in relation to Proposal P1011. That Proposal resulted in two recommended draft variations, one to Standard 1.2.1 and one to the Australia only Standard 1.2.11. The Forum's request for a review did not specify which draft variation was subject to the review. FSANZ therefore reviewed both draft variations.

FSANZ has reviewed its decision and re-affirmed the approval of the draft variations to Standards 1.2.1 and 1.2.11. .

Following consideration by the Forum, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the standard or draft variation of a standard.

Section 94 of the FSANZ Act specifies that a standard, or a variation of a standard, in relation to which a notice is published under section 92 is a legislative instrument, but is not subject to parliamentary disallowance or sunseting under the *Legislative Instruments Act 2003*.

2. Purpose and operation

The purpose of this variation is to repeal current Standard 1.2.11 so that it can be replaced with a new Standard. The variation also makes a consequential change to Standard 1.2.1.

3. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1011 included one round of public consultation following an assessment and preparation of a draft variation. An Assessment Report that included the draft variation was released on 18 July 2011 for a six-week consultation period.

A Regulation Impact Statement was required because the variations to Standard 1.2.11 are likely to have an impact on business and individuals.

⁵ Previously known as the Australia and New Zealand Food Regulation Ministerial Council

Following the Forum's review request FSANZ individually contacted representatives from most state and territory jurisdictions, to clarify the Forum's grounds for review.

4. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

5. Variations

Item [1] is a consequential amendment to Standard 1.2.1 to ensure the cross references to Standard 1.2.11, which relate to the labelling requirements for certain foods exempt from the general requirement to bear a label setting out the information prescribed in the Code, are correct.

Item [2] deletes the existing Standard 1.2.11, which will be replaced 6 months after gazettal.