

## Proposal P1011

# COUNTRY OF ORIGIN LABELLING – UNPACKAGED MEAT PRODUCTS

### General Procedure

#### Summary

On 18 July 2011 FSANZ released a Proposal for public consultation to consider varying Standard 1.2.11 – Country of Origin Requirements in the Food Standards Code to require country of origin labelling (CoOL) in Australia for unpackaged beef (including veal), sheep (including lamb, hogget and mutton) and chicken meat.

In addition, the Proposal makes a number of “structural” amendments to the existing Standard 1.2.11 in response to a legislative audit of the Code conducted by the Office of Legislative Drafting and Publishing.

#### Specific Issues

##### 1. *Proposal to extend CoOL*

The proposal recommends varying the Standard to extend CoOL requirements in the Food Standards Code for unpackaged beef, sheep and chicken meat. However, the Food Authority notes that the Regulation Impact Statement (RIS) accompanying the Proposal recommends that the Proposal be abandoned and that the status quo be maintained.

The RIS advises that the volume of imports of beef and sheep meat into Australia is negligible, less than 0.5% of Australian beef consumption and 0.2% of Australian sheep meat consumption, and there are no imports of chicken meat. The RIS concludes (at page 11)

*“Australia produces sufficient quantities of beef and sheep meat to meet the requirements of the domestic market at competitive rates. Hence the volume of imports of these products is negligible, and likely to remain so in the foreseeable future. With respect to chicken, there are no imports into Australia. All available evidence suggests there will be very little or no market penetration by imported meat and meat products in Australia in future years as the country is more likely to depend mostly on local sources for meat consumption.”*

The RIS notes that

- a. the proposal is likely to impose additional costs on industry in terms of record keeping requirements and the provision of country of origin information at the point of sale,
- b. there may also be costs to consumers as retailers are likely to pass on to the consumers some or all the cost of labelling they may incur, and

- c. in implementing this proposal, a cost burden is likely to be imposed on jurisdictions as they will be required to monitor compliance and evaluate the success of the requirements.

The RIS advises that this proposal, as compared to the other options considered, is likely to impose the highest cost burden on industry and that the largely intangible benefits are unable to be quantified.

An extension of CoOL requirements in the Code to beef, lamb and chicken is therefore not supported by the Food Authority.

## **2. Proposal for “structural” amendments to Standard 1.2.11 – unpackaged foods of mixed origin.**

This Proposal is also being used as a vehicle to implement recommendations of the Office of Legislative Drafting and Publishing to improve the Code for clarity and consistency.

It is an opportunity therefore for the Food Authority to raise a drafting anomaly in the current (and proposed) Standard 1.2.11 relating to the CoOL requirements for unpackaged foods of mixed origin.

As drafted, the Standard 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. This was not the policy intention for the labelling of foods of mixed origin.

Standard 1.2.11 was developed from FSANZ Proposal P292 which recommended that the Standard would contain the following requirement:

**Labelling requirement for unpackaged fish, whole or cut fruit and vegetables including processed variants and fresh and preserved pork (mixed):**

- If the foods are a mix of different products within this category – eg: a mix of fruits – then the label may indicate that the foods are a mix of local and/or imported produce as the case may be. (*Final Assessment Report at page 16*).

The policy intention was to provide for the above “mixed foods” labelling option to be available to retailers in circumstances where the food for sale is a “mix” of different food items of different origins and the individual food items within that “mix” were not offered for purchase on their own.

This is borne out by the following examples provided in the FSANZ material to illustrate the application of this option:-

- gourmet salad leaves where the lettuce is from Australia and the rocket is from New Zealand (Further Assessment report at p 20),
- a container of mixed nuts where some nuts are imported and some grown in Australia (or New Zealand) (FSANZ Discussion Paper 12 August 2005 at p 22).

In both examples the food being offered for purchase is a mixed item (gourmet salad leaves, mixed nuts). There is no suggestion that the consumer may extract the rocket from the mixed leaves or the almonds from the mixed nuts and purchase those individual food items alone.

Further, a discussion of unpackaged foods of mixed origin in the Final Assessment Report (at page 23) includes a consideration of whether “*each of the contributing countries should always be specified and in proportion of the component from each country.*” The use of the word “component” in this discussion suggests again that the “mix” envisaged by the “mixed foods” labelling option is for a mix of foods that are sold only in the mix and perhaps in some pre-determined ratio within that mix.

This policy however has not been translated into the Standard itself.

Currently, Subclause 2(2) of Standard 1.2.11 provides that, in order to meet country of origin labelling requirements any *food listed in column 1 of the table* that is displayed for retail sale other than in a package must have a label on or in connection with its display that *either*:

- a. identifies the country or countries of origin of the food, or
- b. contains a statement indicating that the foods (*sic*) are a mix of local or imported foods or both.

Many of the foods listed in column 1 are singular food items that may be available for individual sale such as fresh whole fruit, fresh whole vegetables, fresh whole pork and fresh fish. It is open to interpretation that labelling option (b) in Subclause 2(2) is available to the retailer for labelling of such food items for individual sale where a number of them are displayed together and are of mixed origin. For example, the Standard allows Australian and imported lemons to be mixed and displayed together with a label in connection with the display that contains a statement indicating that the lemons are a mix of local and imported food. The difficulty with this approach is that a consumer wishing to purchase a single lemon from the display has no idea whether that lemon is Australian grown or imported. The intention of the Standard to provide consumers with mandatory information upon which to make purchasing decisions is thus defeated.

Unfortunately, the revised Standard 1.2.11 presented in the Proposal does not address this loophole. Clause 3(1) of the revision provides that food listed in the Table to that subclause that is displayed for retail sale must be labelled with a statement on or in connection with the display which -

- a. identifies the country or countries of origin of the food;
- 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.

Item 7 of the Table makes it clear that the food may be a mix of foods listed in column 2 of the Table.

Again, it is open to a retailer to display together, but for individual sale, a mix of food items within the Table under a common label indicating that the food is a “mix of local and imported foods” or that the food is a “mix of imported foods”, as applicable.

To close this loophole, the Food Authority requests that Standard 1.2.11 be amended to make it clear that the “mixed foods” labelling options for unpackaged foods of mixed origin are confined only to those mixed foods that are displayed as a mix *and sold* as a mix and not to a mix of foods displayed as a mix where individual food items within that mix may be purchased on their own.

**ENDS**

**The views expressed in this submission may or may not accord with those of other NSW Government agencies. The NSW Food Authority has a policy which encourages the full range of NSW agency views to be submitted during the standards development stages before final assessment. Other relevant NSW Government agencies are aware of and agree with this policy.**