2-04
17 March 2004

DRAFT ASSESSMENT REPORT

PROPOSAL P237

COUNTRY OF ORIGIN LABELLING OF FOOD

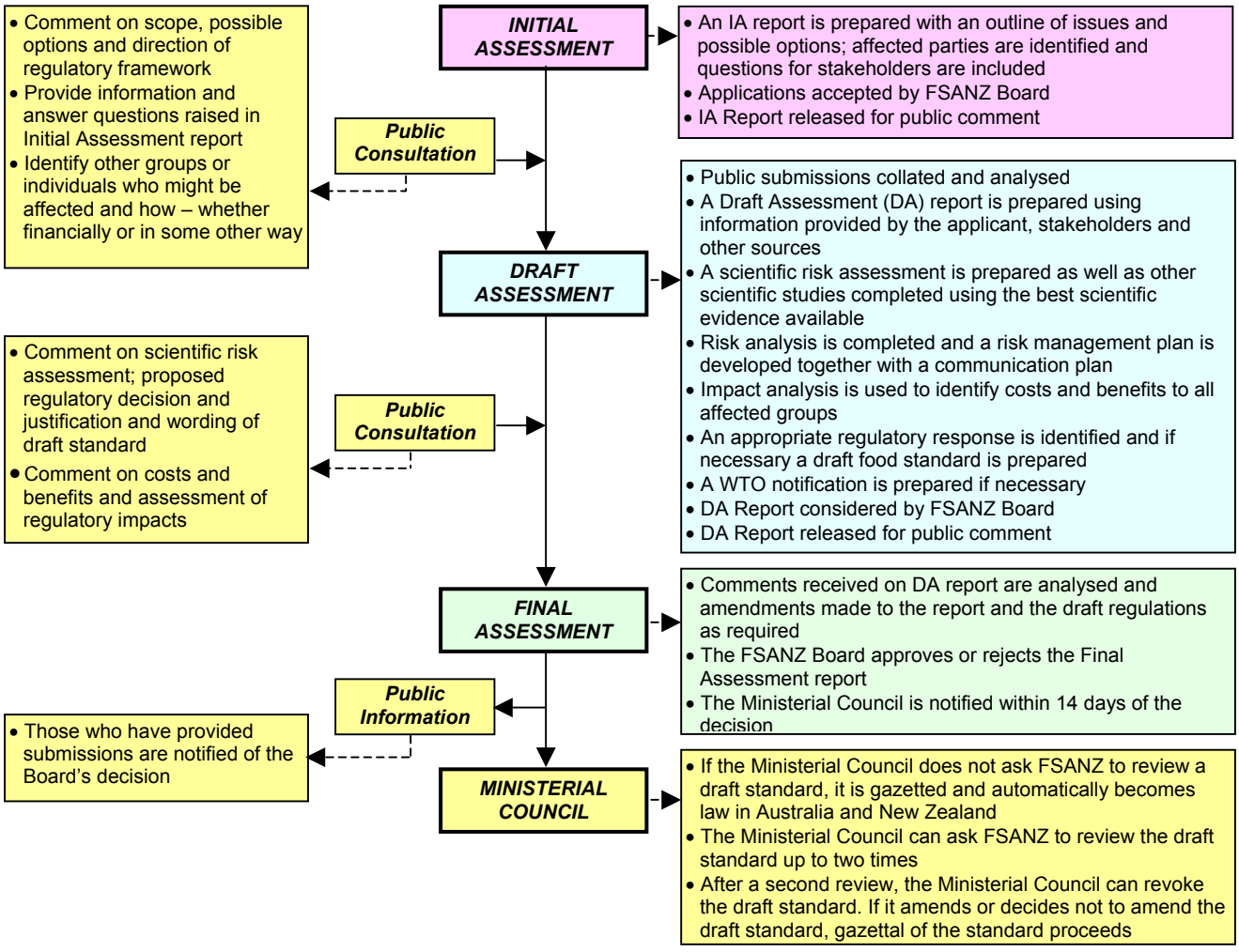
FOOD STANDARDS AUSTRALIA NEW ZEALAND (FSANZ)

FSANZ's role is to protect the health and safety of people in Australia and New Zealand through the maintenance of a safe food supply. FSANZ is a partnership between ten Governments: the Commonwealth; Australian States and Territories; and New Zealand. It is a statutory authority under Commonwealth law and is an independent, expert body.

FSANZ is responsible for developing, varying and reviewing standards and for developing codes of conduct with industry for food available in Australia and New Zealand covering labelling, composition and contaminants. In Australia, FSANZ also develops food standards for food safety, maximum residue limits, primary production and processing and a range of other functions including the coordination of national food surveillance and recall systems, conducting research and assessing policies about imported food.

The FSANZ Board approves new standards or variations to food standards in accordance with policy guidelines set by the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) made up of Commonwealth, State and Territory and New Zealand Health Ministers as lead Ministers, with representation from other portfolios. Approved standards are then notified to the Ministerial Council. The Ministerial Council may then request that FSANZ review a proposed or existing standard. If the Ministerial Council does not request that FSANZ review the draft standard, or amends a draft standard, the standard is adopted by reference under the food laws of the Commonwealth, States, Territories and New Zealand. The Ministerial Council can, independently of a notification from FSANZ, request that FSANZ review a standard.

The process for amending the *Australia New Zealand Food Standards Code* is prescribed in the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). The diagram below represents the different stages in the process including when periods of public consultation occur. This process varies for matters that are urgent or minor in significance or complexity.



FSANZ has now completed one stage of the assessment process and held one round of public consultation as part of the assessment of this Proposal. The regulatory environment has changed since the completion of the first stage of the assessment process and consequently the FSANZ Board has approved this Draft Assessment Report and its recommendation to abandon this Proposal.

FSANZ will prepare a new Proposal to re-consider country of origin labelling (CoOL) of food. This Proposal will take into consideration the changes to the food regulatory environment and the policy guidelines set by the Ministerial Council. Stakeholders are encouraged to provide submissions to the new Proposal when it is advertised for public comment.

Further Information

Further information on this Proposal and the assessment process should be addressed to the FSANZ Standards Management Officer at one of the following addresses:

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Assessment reports are available for viewing and downloading from the FSANZ website www.foodstandards.gov.au or alternatively paper copies of reports can be requested from FSANZ's Information Officer at info@foodstandards.gov.au including other general enquiries and requests for information.

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Executive Summary and Statement of Reasons

In May 2001, the then Australia New Zealand Food Authority (ANZFA), now Food Standards Australia New Zealand (FSANZ) prepared a proposal, Proposal P237, to consider the need for the inclusion of country of origin labelling (CoOL) provisions in the *Australia New Zealand Food Standards Code* (the Code). The review was to consider within the context of minimum effective regulation, whether the general provisions in food law, fair trading and trade descriptions laws were sufficient to fulfil the objectives of CoOL of food, and whether the benefits of labelling to the community outweighed the cost of compliance and enforcement.

In October 2001, recognising the divergence of stakeholder opinion expressed at Initial Assessment in response to Proposal P237 and mindful of the separation of responsibilities for the development of food policy and food standards resulting from the Inter-Governmental Agreement signed by the Council of Australia Governments (COAG) in November 2000, ANZFA referred the matter of CoOL to the Ministerial Council for policy guidance. ANZFA suspended work on Proposal P237 while awaiting the outcome of the policy development process.

In April 2003, the Ministerial Council agreed to a policy direction on CoOL, recommending that CoOL of food be mandatory in the Code for the purposes of enabling consumers to make informed choices. The policy guidance also identified a set of high order and specific principles to be considered by FSANZ during the development of a standard for CoOL of food.

The regulatory options proposed by ANZFA in the Initial Assessment Report for Proposal P237 and consulted on in May 2001 are not entirely consistent with policy guidance agreed to by the Ministerial Council in April 2003. In view of the recommendation by the Ministerial Council for a mandatory standard for CoOL of food in the Code, FSANZ considers that work on Proposal P237 now be abandoned and that a new proposal be prepared to consider the regulation of CoOL within the context of the Ministerial Council's policy guidance.

A new proposal for CoOL will allow FSANZ to better take account of the Ministerial Council's policy guidance and to consult on new options which meet the information needs of consumers and which are consistent with Australian and New Zealand national policy and international trade agreements. Preparing a new proposal will allow FSANZ to undertake a two-stage consultation process, maximising stakeholder input on the new options rather than relying on the final stage of consultation remaining on Proposal P237. Given the need to develop new options for the regulation of CoOL, FSANZ considers it appropriate to start afresh with a new proposal to eliminate any confusion that might result from a continuation of Proposal P237. A new proposal will focus stakeholder input on the new options. Those issues that are relevant to the new options canvassed in the new Proposal and which were raised in P237 will be represented in the new Proposal.

Currently the Code contains a transitional Standard for country of origin labelling (CoOL) (Standard 1.1A.3). This standard incorporates the various CoOL requirements of the former Australian *Food Standards Code* and the New Zealand *Food Regulations, 1984,* both of which have now been repealed. This transitional standard will be retained in the Code until a new standard for the regulation of CoOL of food has been developed.

1. Introduction

1.1 Nature of Proposal

On 24 November 2000, Ministers adopted the Code. At that time a number of outstanding matters were identified for review during the two year transition period. One of these tasks was a review of the provisions contained in the former Australian *Food Standards Code* regarding mandatory CoOL of food and, as a result, Proposal P237 was prepared.

The overarching aim of Proposal P237 is to assess the need for mandatory CoOL provisions in the Code within the context of harmonisation between Australia and New Zealand. An important component of the review is to consider, within the context of minimum effective regulation, whether the general provisions in food law, fair trading and trade descriptions law are sufficient to fulfil the objectives of CoOL of food, and that the benefits of labelling to the community outweigh the costs of compliance and enforcement.

2. Regulatory Problem

2.1 Current Standard

Currently the transitional Standard for CoOL requirements (Standard 1.1A.3) in the Code incorporates the various CoOL requirements of the former Australian *Food Standards Code* and the New Zealand *Food Regulations 1984*, both of which have now been repealed. The transitional Standard does not apply in New Zealand, other than certain requirements that relate to wine and wine products.

The transitional Standard requires the label on or attached to all packaged food to contain a statement that identifies the country or countries in which a food was produced. This requirement may be satisfied by including on the label a statement identifying the country in which the food was packed for retail sale, and, if any of the ingredients do not originate in this country, a statement of the effect that the food is made from local or imported ingredients. In addition, certain unpackaged foods namely uncooked fish, vegetables, nuts and fresh fruit that originate from anywhere other than Australia or New Zealand, are required to be labelled with their country of origin, or a statement indicating that they are imported.

Under the Australia New Zealand Food Standards-setting Agreement (the Treaty), Australia and New Zealand have entered into a treaty for the development of joint food standards in both countries. It is therefore necessary to review the CoOL requirements with a view to developing a joint approach concerning CoOL of food.

There are also country of origin labelling provisions contained in other Australian and New Zealand legislation, namely the:

- *Australian Trade Practices Act 1974* (TPA);
- *Australian Commerce Trade Descriptions Act 1905* (CTDA); and
- New Zealand *Fair Trading Act 1986*
  (See section 4 for more detail on Australian and New Zealand legislation).

It is therefore necessary to examine, within the context of minimum effective regulation, the most appropriate regulatory response for country of origin labelling of food.

3. Objective

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives which are set out in section 10 of the FSANZ Act. These are:

- the protection of public health and safety;
- the provision of adequate information relating to food to enable consumers to make informed choices; and
- the prevention of misleading or deceptive conduct.

In developing and varying standards, FSANZ must also have regard to:

- the need for standards to be based on risk analysis using the best available scientific evidence;
- the promotion of consistency between domestic and international food standards;
- the desirability of an efficient and internationally competitive food industry;
- the promotion of fair trading in food; and
- any written policy guidelines formulated by the Ministerial Council (Attachment 1).

3.1 Specific Objectives

The specific objectives of this Proposal are:

- to establish a consistent approach for Australia and New Zealand with regard to CoOL of food;
- to determine, within the context of minimum effective regulation, the most appropriate regulatory response by which a consistent approach can be achieved;
- to promote consistency between domestic and international food regulatory measures; and
- to assess and compare the net benefits of the proposed regulatory options for consumers, industry and government in terms of protecting public health and safety, ensuring the provision of adequate information for consumers to make informed choices and the prevention of misleading and deceptive conduct.

4. Background

4.1 Historical Background

4.1.1 Previous Proposal, P90

In 1992, the then National Food Authority (NFA) received three Applications seeking amendment of the provisions in the former Australian *Food Standards Code* relating to the CoOL of food. The NFA commenced a review of CoOL, Proposal P90, in October 1992, in order to rationalise and clarify the existing provisions and consider the need for new requirements.

During the review, several Federal Court decisions regarding the TPA created uncertainty about the meaning of 'Made in Australia' and 'Product of Australia' for goods generally. Subsequently, The Australian Parliament amended the TPA to establish a legislative compliance regime for country of origin claims. The amendments made to the TPA by the *Trade Practices Amendment (Country of Origin Representations) Act 1998* came into effect on 13 August 1998 (See Section 4.2.2.1 for more detail).

With the incorporation of the country of origin amendments in the TPA, ANZFA (formerly the NFA) was in a position where the new legislative compliance regime had not been given due consideration in Proposal P90. In addition, Australia and New Zealand had now signed a Treaty, which established a system for the development of joint Food Standards for both countries, which meant that the review of CoOL would need to include New Zealand. These developments affected ANZFA's ability to complete the review of CoOL under Proposal P90. It was therefore decided to abandoned the review and start afresh by raising a new proposal.

4.1.2 Australia New Zealand Food Standards Code

The adoption of the Code by Ministers saw a number of outstanding matters identified for review during a two-year transition period. One of the tasks was a review of the provisions contained in Volume 1 (the Australian *Food Standards Code*) regarding mandatory CoOL of food. In May 2001, a new review of CoOL, Proposal P237, was raised.

4.1.3 P237 Initial Assessment Report

The Initial Assessment Report for Proposal P237 was circulated for public comment in May 2001. The first round of public consultation highlighted the diversity of the views on this matter within the food industry and between consumer groups in Australia and New Zealand.

4.1.4 Policy Direction and Policy Guidelines

The establishment of the new food regulatory system saw ANZFA refer CoOL of food to the Ministerial Council to set policy guidelines in October 2001. In April 2003, the Ministerial Council agreed to a policy direction on mandatory CoOL of food. Ministers emphasised that this is not a public health and safety issue, as the safety of the food supply is assured through other means. The Ministerial Council's support for CoOL of food is on the grounds of enabling consumers to make informed choices.

In December 2003, the Ministerial Council agreed to refer the Policy Guidelines for CoOL of food to FSANZ (Attachment 1), to guide amendment of the Code, in accordance with the processes outlined in the FSANZ Act.

4.2 Other Regulations addressing Country of Origin Labelling

4.2.1 International

4.2.1.1 Codex

The Codex *General Standard for the Labelling of Pre-packaged Foods* states in section 4.5 that:

- The country of origin should be declared if its omission would mislead or deceive the consumer.

- When a food undergoes processing in a second country, which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

Specific provisions on CoOL have also been established for some classes of commodities especially fresh fruit, vegetables and milk products.

The Codex Committee on food labelling is currently considering whether to approve new work, proposed by the delegation of the UK and supported by Malaysia and Switzerland, on an amendment to the *General Standard for the Labelling of Prepackaged Foods* in order to amend the provisions for CoOL.

4.2.1.2 United Kingdom and European Union

Codex Principles concerning CoOL have been reflected in European Union (EU) and United Kingdom (UK) law.

The Food Standards Agency (FSA) of the UK are pressing for changes to EU rules to require origin labelling on a wider range of foods and for clear rules on the use of terms like 'produce of ...'. The FSA are putting the case for more origin labelling vigorously at international levels particularly through the Codex Committee on Food Labelling (See Section 4.2.1.1).

In the meantime, the FSA have produced guidance on the interpretation of the existing rules to ensure they address the issues that are of most concern to consumers and with a view to encouraging increased voluntary declarations.

4.2.1.3 United States of America

CoOL is only mandatory for imported foods under the *Tariff Act 1930*. Country of origin claims are regulated by the Federal Trade Commission and the US Customs Service as part of the general trade regulation, rather than by the Food and Drugs Administration as part of general food regulation. The law requires that a country of origin statement be conspicuous.

If a domestic firm's name and address is declared as the firm responsible for distributing the product, then the country of origin statement must appear in close proximity to the name and address and be at least comparable in size of lettering.

The *Farm Security and Rural Investment Act of 2002*, more commonly known as the 2002 Farm Bill, had an initiative which would require mandatory CoOL for beef, pork, fish, perishable agriculture commodities and peanut products produced in the US by 30 September 2004. However, the Senate approved an omnibus appropriations bill containing a two-year moratorium on mandatory CoOL for products produced in the US. This will delay mandatory CoOL on US produce until 30 September 2006.

4.2.2 Australia

4.2.2.1 Trade Practices Act 1974 (Commonwealth)

The *Trade Practices Amendment (Country of Origin Representations) Act 1998* came into effect on 13 August 1998. These amendments to the TPA provide a legislative regime for CoOL claims. In addition to its general prohibition on corporations engaging in conduct that is misleading and deceptive (s.52), the TPA now provides that a corporation shall not… make a false or misleading representation covering the place of origin of goods' (s.53(eb)). The TPA also provides that certain country of origin representations made about goods do not contravene subsections 52 or 53 (eb), and provides a general test for country of origin representations (s.65AB). The TPA applies to claims such as 'made in' as well as 'product of' claims.

The general test for country of origin representations is that:

- where a corporation makes a representation as to the country of origin of the goods (such as 'made in' but not 'product/produce of' or a prescribed logo); and
- the goods have been substantially transformed in the country represented; and
- at least 50% of the production or manufacturing processes that occurred in the country represented, the corporation will not contravene the TPA. This approach sets a clear minimum standard for ensuring that unqualified claims of origin are not misleading and deceptive.

Use of 'Product of…' representations do not contravene the TPA where all the significant ingredients or components come from the country represented, and all, or virtually all, of the production/manufacturing processes also occurred in the country represented. It is this premium label that indicates to consumers that a food contains ingredients from in Australia and was produced or manufactured in Australia.

However, there is nothing to prevent local producers and manufacturers from clearly identifying the actual amount of Australian (or other country) content or input in their products. Many businesses choose to provide this information to consumers as it may provide them with a market defence.

The Australian Competition and Consumer Commission (ACCC) administer the TPA. They have produced a guideline on 'Made in…' and 'Product of…' claims that explains the circumstances under which these can be used.

4.2.2.2 *Commerce Trade Descriptions Act 1905*

The *Commerce Trade Descriptions Act 1905* (CTD Act) makes it an offence to import goods to which false a false trade description is applied (s.9), and prohibits the export of goods to which any false trade description is applied (s.12). (A false trade description is defined as 'a trade description which…is false or likely to mislead in a material respect as regards to goods to which it is applied…'(s.3)).

The *Commerce Imports Regulations 1940* prohibits the import of a number of specified products, including articles used for food or drink, unless a trade description that contains the name of the country in which the goods were made or produced is applied to the goods Regulations 7(1)(a), 8(c)(i)). In complying with this requirement, importers should be mindful of the provisions of the TPA as well.

A National Competition Policy Review of the CTD Act and the *Commerce Imports Regulations 1940* has recommended that the CTD Act be retained but that the regulations be repealed. A repeal of the regulations would result in imported food no longer being required to carry CoOL under this Act.

A Government response to the Review has yet to be completed.

4.2.2.3 Australian State and Territory regulations

There is no specific legislation in State and Territory food law that regulates country of origin labelling.

4.2.3 New Zealand

4.2.3.1 *New Zealand Fair Trading Act 1986*

The *New Zealand Fair Trading Act 1986* (NZFTA) is modelled on the TPA. The NZFTA does not require all products to be labelled with country of origin. However, where a product is labelled, any claims made about its origin must not be misleading or deceptive. In relation to food, this includes labelling of food products, and any advertising, promotional material, or verbal representation about those products.

While the NZFTA does not require that all products be labelled with a place of origin, where a product is labelled, any claims made about its origin must not be misleading. S.13 (j) provides that:

- 'No person shall, in trade, in connection with the supply or possible supply of goods or services – (j) make a false or misleading representation concerning the place of origin of the good.'

The Commerce Commission (NZ) enforces the NZFTA and the *Commerce Act 1986*. The Ministry for Economic Development is responsible for the administration of the NZFTA.

5. Relevant Issues

The review of CoOL of food (Proposal P237) has been underway since May 2001. During this time there have been major changes to the food regulatory environment in Australia and New Zealand. This development has affected FSANZ's ability to complete the review of CoOL of food.

The most significant changes to the food regulatory environment that have affected the review include:

- a separation of responsibilities for development of food policy and the development of food standards, with ultimate decision-making power residing with the Ministers; and

- establishment of a new statutory body – FSANZ to develop food standards. This organisation is based on the former ANZFA. However, the development of food policy is now the responsibility of the Ministerial Council.

The changes to the regulatory environment were introduced after the Proposal P237 Initial Assessment Report was released for public consultation (May 2001). As a result the regulatory options canvassed in Proposal P237 did not give full regard to the policy guidance agreed to by the Ministerial Council in April 2003.

Therefore, to ensure that FSANZ gives full regard to the policy guidelines as required under the new regulatory arrangements and any submissions received it is believed that it is necessary to abandon Proposal P237 and raise a new Proposal. Raising a new Proposal will allow FSANZ to canvass new options that will be consistent with the policy guidelines and it will also eliminate any confusion among stakeholders that might result from a continuation of Proposal P237. It will also maximise stakeholder input into any new options posed.

Previous major issues raised in response to Proposal P237 will be taken into consideration in the new Proposal if they are consistent with the new options.

6. Regulatory Options

In the Initial Assessment phase of Proposal P237 four possible options were identified with respect to CoOL of food.

1. Maintain the Status quo – retain the current transitional standard. The current transitional standard does not apply to New Zealand other than certain requirements that relate to wine and wine products.

2. Reliance on the fair trading laws and trade description laws.

3. Self-regulation (Industry Code of Practice).

4. Develop a new standard in the Code that would apply to both Australia and New Zealand.

Of the identified Options at the Initial Assessment phase, only Option 4 is consistent with the policy guidance passed onto FSANZ by the Ministerial Council.

7. Impact Analysis

7.1 Affected Parties

Parties affected by the options outlined above include:

1. Industry – food manufacturers, processors and growers, and importers

2. Consumers of foods and food ingredients - especially those with an interest in supporting local industry or those that required country of origin information to assist in choosing food products based on political, ethical or religious views.

3. Government agencies that regulate the food industry in Australia and New Zealand and those with an interest in food policy and regulation relevant to this proposal.

7.2 Impact Analysis

An impact analysis was not conducted for Proposal P237 at the Draft Assessment stage because it is recommended that the Proposal be abandoned. The Proposal is to be abandoned because the regulatory options canvassed in the Initial Assessment Report are not entirely consistent with the policy guidelines passed onto FSANZ by the Ministerial Council.

8. Consultation

8.1 Stakeholder Forums

In the weeks preceding the closing date for written submissions to the Initial Assessment Report, FSANZ invited key stakeholders to attend forums in Auckland, Wellington, Sydney and Melbourne to consider issues related to CoOL of food and to provide information regarding the review process. The forums were also an opportunity to encourage key stakeholders to formally submit their feedback in writing.

FSANZ received a total of 47 written submissions, with twelve of these being from New Zealand organisations. The majority of responses for both Australia and New Zealand were from the food industry, accounting for 24 and nine submissions respectively. There were also in total, six submissions from consumers groups and individual consumers. A total of 8 submissions were received from Government agencies.

The following table provides a breakdown of the submissions supporting each option in Australia and New Zealand. (Note that one of the submissions provided comment but did not indicate support for an option.)

OPTION	AUSTRALIA	NEW ZEALAND	TOTAL
Maintain Status Quo	2	0	**2**
Reliance on fair trading laws & trade description laws	15	5	**20**
Self – regulation	0	2 (2 submissions also noted option 3 has merit)	**2**
New Standard in ANZFSC	18 (of these, 8 specifically mentioned that the new Standard must have consistency with the TPA provisions)	5	**23**
		Total Submissions	**47**

The written submissions clearly indicate that option 2 – Reliance on fair trading laws and trade description laws (20 submissions) and option 4 – Development of a New Standard (23 submissions) are the preferred options.

8.2 External Advisory Group

The early engagement of key stakeholders from both Australia and New Zealand was considered to be important. Therefore, FSANZ established an External Advisory Group consisting of representatives from government, industry and consumers to oversee the review and to provide expert advice when required. The membership of the External Advisory Group consisted of representatives from:

- Department of Agriculture, Fisheries and Forestry - Australia (AFFA);
- Australian Quarantine and Inspection Service (AQIS);
- Australian Customs Service;
- Australian Competition and Consumer Commission;
- Australian Food and Grocery Council;
- National Farmers' Federation;
- Australian Retailers' Association;
- Australian Chamber of Commerce and Industry;
- New Zealand Ministry of Economic Development;
- New Zealand Grocery Marketers Association; and
- New Zealand Consumers Institute.

8.3 World Trade Organization (WTO)

As members of the World Trade Organization (WTO), Australia and New Zealand are obligated to notify WTO member nations where proposed mandatory regulatory measures are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

In this case, as the Proposal is recommended to be abandoned (see below) then it is not necessary to notify the WTO member nations as this Proposal will not result in any regulatory change.

9. Conclusion and Recommendation

The regulatory options proposed by ANZFA in the Initial Assessment Report for Proposal P237 and consulted on in May 2001 are not entirely consistent with policy guidance agreed to by the Ministerial Council in April 2003. In view of the recommendation by the Ministerial Council for a mandatory standard for CoOL of food in the Code, FSANZ considers that work on Proposal P237 now be abandoned and that a new proposal be raised to consider the regulation of CoOL within the context of the Ministerial Council's policy guidance.

A new proposal for CoOL will allow FSANZ to better take account of the Ministerial Council's policy guidance and to consult on new options which meet the information needs of consumers and which are consistent with Australian and New Zealand national policy and international trade agreements. Raising a new proposal will allow FSANZ to undertake a two-stage consultation process, maximising stakeholder input on the new options rather than relying on the final stage of consultation remaining on Proposal P237. Given the need to develop new options for the regulation of CoOL, FSANZ considers it appropriate to start afresh with a new proposal to eliminate any confusion that might result from a continuation of Proposal P237. A new proposal will focus stakeholder input on the new options. Those issues that are relevant to the new options canvassed in the new Proposal and which were raised in P237 will be represented in the new Proposal.

The transitional Standard for CoOL (Standard 1.1A.3) will be retained in the Code until a new standard for the regulation of CoOL of food has been developed.

11. Implementation and review

Proposal P237 is to be abandoned so there will be no need for an implementation or review strategy.

FSANZ will raise a new Proposal to re-consider country of origin labelling of food. This Proposal will take into consideration the changes to the food regulatory environment and the policy guidelines passed onto FSANZ by the Ministerial Council. All submissions to Proposal P237 will be taken into consideration during the assessment process of the new Proposal. Stakeholders are encouraged to submit new submissions to the new Proposal.

ATTACHMENTS

1. Australia New Zealand Food Regulation Ministerial Policy Guidelines
2. Summary of Submissions

ATTACHMENT 1

Australia and New Zealand Food Regulation Ministerial Policy Guidelines Country of Origin Labelling of Food

SCOPE/ AIM

To develop regulatory principles for country of origin labelling to ensure that Food Standards Australia New Zealand (FSANZ) meets its statutory obligations under Section 10 of the *Food Standards Australia New Zealand Act 1991*. In meeting its statutory obligations, it is recognised that country of origin labelling is not a public health and safety issue.

HIGH ORDER PRINCIPLES

- Ensure that consumers have access to accurate information regarding the contents and production of food products.
- Ensure that consumers are not misled or deceived regarding food products.
- Be consistent with, and complement, Australia and New Zealand national policies and legislation including those relating to fair-trading and industry competitiveness.
- Be cost effective overall, and comply with Australia and New Zealand obligations under international trade agreements while not being more trade restrictive than necessary

SPECIFIC PRINCIPLES

- Balance the benefit to consumers of country of origin labelling with the cost to industry and consumers of providing it.
- Ensure consistent treatment of domestic and imported food products with regard to country of origin requirements.

POLICY GUIDANCE

In developing a new standard for country of origin labelling in the *Food Standards Code*, FSANZ should ensure that:

- the standard is consistent with the High Order and Specific Principles;
- country of origin labelling of food is mandatory for the purpose of enabling consumers to make informed choices;
- country of origin labelling applies to the whole food, not individual ingredients; and
- consideration is given to the existing temporary Australian standard (Standard 1.1A.3).

As endorsed by ANZFRMC – August 2003

ATTACHMENT 2

Summary of Submissions for P237

Australian Submissions

Option 1 – Status Quo

Support	
Canberra Wine Bureau*	• Noted that the current CoOL regulations in Volume 1 of the FSC should be retained in Volume 2 but come under review once progress is made on CoOL issues in the international forums.
Food Technology Association Victoria Inc.	• Support Option 1 to retain current Standard. • Noted that legally, fair trading laws in both countries will take precedence over the ANZFSC and relevant food acts and ANZFA should issue guidelines based on TGA and ACCC guidelines, decreasing the likelihood of misinterpretation of the Standard. • Noted that imported food should indicate the country of origin (CoO) based on the actual food and no consideration be given to packaging, labour, location of premises etc. • Noted that food imported into Australia from New Zealand should have a statement that indicates CoO if not New Zealand.
Oppose	
Appledale Processors Co-op Ltd.	• Noted the current provision, which allows the use of generic statements such as 'Australian' or 'Imported' or a combination of both, does not prevent misleading or deceptive conduct nor provide adequate information so the purchaser can make an informed choice.
Australian Consumers' Association (ACA)	• Noted the lack of clarity between currant Standard and CoOL provisions of the TPA. • Noted the current standard allows manufacturers to state meaningless information such as 'from local and imported ingredients' and provides a defence to manufacturers sourcing products locally and internationally. • Noted the standard is inconsistent with the provisions of the TPA and does not provide a higher standard of specificity for CoOL of food, which is required compared to other general consumables.
Australian Food and Grocery Council (AFGC)	• Consider that there are no additional advantages to maintaining the status quo as manufacturers will still be subjected to provisions in three pieces of legislation, namely the Code, *Commerce (Imports) Regulation 1940* and TPA.
Department of Agriculture, Fisheries and Forestry – Australia (AFFA)	• Noted that the retention of the current standard will not address consumer concerns as the Standard does not allow for the labelling of specific CoO of all ingredients and only identifies that the product was made with local and imported ingredients.
Focus On Responsible Consumption (FORK)	• Fork rejects the status quo option.
Goodman Fielder	• Noted that inconsistency between Australia and New Zealand would continue under this option and could also be trade restrictive and inconsistent with Codex.
National Foods Ltd.	• Noted that under this option there would still be a two or three tiered (if an imported product) system of regulation. This is considered as unnecessary, when no other product is subjected to this level of regulation.

Public Health Services Queensland Government	• Consider that under the current Standard it is too easy for manufacturers/distributors to mislead consumers about origin of products.

Option two – Reliance on Fair Trading Laws

Support	
Appledale Processors Co-op Ltd.	• Noted that the origin of the food has no influence over its safety and therefore CoO claims need only be regulated in TPA and fair trading. • Noted that TPA/fair trading has more legislative force and higher penalties for breaches. • Noted that the US regulates CoO statements through the Federal Trade Commission and the US Customs Service instead of general food regulation.
Australian Chamber of Commerce and Industry (ACCI)	• The ACCI supports the existing provisions of the TPA relating to 'Made in…' and 'Product of …' claims • Consider that business and consumers are best served through having one set of regulations and that the TPA has demonstrated that it is an effective mechanism to protect consumers and provide clear guidance to industry. • Consider that reliance on fair trading means there is a level playing field for all manufactured goods without any one sector being subjected to different rules. • Noted that a new Standard in the Code would still be subordinate to the TPA
Australian Competition & Consumer Commission (ACCC)	• Noted that CoO contraventions are primarily concerned with breaches of Section 52 and 53 of the TPA dealing with misleading and deceptive conduct. • The ACCC's preferred approach to enforcement is reliance on the TPA provision under the umbrella of an MOU along the lines of the draft previously submitted to FSANZ (July 2000).
Australian Food and Grocery Council (AFGC)	• The AFGC supports option 2 and maintaining the TPA defences in relation to use of CoO terms.
Australian Fruit Juice Association (AFJA)	• AFJA supports option 2 for the regulation CoO claims under fair trading laws.
Australian Made Campaign	• Does not support mandatory CoOL and noted that costs to industry will be minimised if there is no change or simply a reversion to the TPA provisions. • Notes that TPA takes precedence over all other legislation or regulation relating to CoO matters in Australia however the safe harbour defences are yet to be tested in the courts. • Noted that industry guidelines are currently being developed by ACCC including one for the Food and Beverage industry.

Department of Agriculture, Fisheries and Forestry – Australia (AFFA)	• AFFA's preferred option is reliance on fair trading and import legislation for the following reasons: ▪ Given that the TPA overrides the Code, there is no need for special labelling arrangements for food; ▪ The removal of the Code provision is in line with the Government's policy of minimum effective legislation; ▪ The Code provision is in excess of international requirements and may provoke retaliatory action from trading partners who may consider the mandatory requirements to be a non-tariff barrier; and ▪ Supporting mandatory CoOL in Australia is contrary to the position that Australia has taken on this matter in the international forums. • Noted that the removal of the Standard would provide harmonisation between Australia and New Zealand, fulfilling the primary aim of the review.
Food and Beverage Importers Association	• FBIA considers that there is no persuasive evidence to show that there is a problem in relation to origin labelling that requires regulation in addition to the provisions of the TPA and therefore favour option 2.
Golden Circle Ltd	• Support minimum effective legislation and therefore preferred option is to rely on fair trading law.
Goodman Fielder	• Goodman Fielder supports a regulatory approach which allows manufacturers to respond to consumer demands voluntarily under provisions of fair trading legislation which is sufficiently powerful enough to capture unfair or misleading claims. Specific food standards should only be considered if there is clear evidence of a market failure. • Consider that this option is entirely consistent with Codex. • Noted that this option relieves New Zealand producers from any extra costs associated with new origin labelling requirements. • Goodman Fielders view is that food products should not be treated any differently from other goods with regard to origin claims.
International Council of Grocery Manufacturers Associations (ICGMA)	• Strongly supports Option 2 and that there should be no specific requirement in the joint Code to make CoO declaration.
National Foods Ltd	• Supports Option 2 as it appears to be the most appropriate way forward to rationalise the current regulations of CoOL. • Acknowledged that while there is no mandatory requirement under fair trading law, it still provides that: when a CoO is stated, it must not mislead or deceive; and when the label is silent about the origin of a food, this must not mislead or deceive. • Noted that reliance on fair trading laws would result in no extra burden on enforcement agencies. • Suggested that reliance on fair trading laws would have minimal impact in terms of labelling.
National Meat Association of Australia	• Support the reliance on the TPA and other fair trading legislation.
Nestlé Australia Ltd	• Nestle recommends that TPA be used solely to regulate CoO as manufacturers will be obliged to provide the information voluntarily due to consumer demand. • Noted that reliance on fair trading laws will standardise food to other commodities in Australia; with no extra costs imposed on New Zealand food manufacturers and with no less information provided to NZ consumers than currently is.

Unilever Australia Ltd.	• Unilever supports Option 2 – Reliance on Fair Trading Laws as preferred option as it: ▪ Is consistent with the requirements of other industries; ▪ Only has one regulator involved; ▪ Is harmonised between Australia and New Zealand; ▪ Applies equally to domestic and imported food; ▪ Is consistent with minimum effective regulation; and ▪ The principles are well established. • Noted that the other proposed regulatory options are also subjected to fair trading laws however consider that these options complicate issues of regulatory compliance and enforcement.
<u>Oppose</u>	
Australian Consumers' Association	• Noted that the percentage definitions for 'Made in Australia' and other origin representations regulated by the TPA are misleading to consumers despite significant public education initiatives on the issue. • ACA believes that food requires a higher level of specificity for CoOL than that provided under the TPA due to the role information plays in determining health risks of food for quarantine and health protection purposes.
Bob Kucera – Minister for Health Western Australia	• Considers that the two provisions in TPA, prevention of misleading or deceptive conduct and the prohibition of making a false or misleading representation concerning the place of origin does not adequately enable regulatory control over claims that a food product is made in Australia but the ingredients are imported.
Focus On Responsible Consumption (FORK)	• FORK is not in support of food being treated the same as other products because food has a direct effect on health. • FORK considers that relying on fair trading laws is insufficient as in many circumstances there may be no obligation to state CoO.
George Weston Foods Limited (GWF)	• GWF does not support Option 2, because there is no mandatory requirement for CoOL. • Noted that the labelling regime under this option could potentially mislead consumers as imported foods that are packed in Australia, may not satisfy 'Made in Australia' test but 'Australia' would appear in the address of supplier, potentially leading a consumer to assume incorrectly that the product is made in Australia.
National Council of Women of Australia	• Considers that the TPA is designed for goods rather than food.
Public Health Services Queensland Government	• Noted that it has been displayed in the past that general provisions of the Fair Trading Act 1986 can be exploited by industry and less prescriptive requirements may lead to further lack of compliance.
<u>Enforcement</u>	
Australian Chamber of Commerce and Industry (ACCI)	• Noted that responsibility for labelling policies across industries should be vested in a single agency wherever possible to ensure harmonisation of laws both domestically and internationally. • Noted that a key source of costs to business is the complexity and the duplication of enforcement on labelling as a result of the plethora of agencies and governments who have responsibility.
Australian Competition & Consumer Commission (ACCC)	• Noted that deceptive conduct in relation to food labelling often transcends State/Territory borders and becomes a national issue requiring ACCC to step in. ACCC acknowledge that their enforcement criteria in relation to food matters may not be allocated to the level of priority expected or sought by FSANZ.

Australian Fruit Juice Association (AFJA)	• Noted that enforcement of CoOL requirements be administered by the ACCC.
Department of Agriculture Fisheries and Forestry - Australia (AFFA)	• AFFA notes that the ACCC has express willingness to take over responsibility for enforcement of CoO claims on food.
George Weston Foods Limited (GWF)	• GWF noted it is important that there is uniformity across various pieces of legislation and that applicable tests should be define, i.e. Australian Food Manufacturers, which are not incorporated, are subject to the requirements of state fair trading legislation which do not include the 'safe harbour' tests in terms of Division 1AA of Part 5 of the TPA.
Hon. Wendy Edmond MLA - Minister for Health, QLD	• Noted that placing requirements solely under fair trading laws would mean that fair trading agencies agree to take on a role currently preformed by other agencies.
National Meat Association of Australia	• Noted that regulators currently enforcing food safety in Australia and New Zealand can regulate under the fair trading laws just as easily as under the Code. • Noted that if the current laws are not being enforced then these concerns should be addressed with the regulators and not by changing the regulations themselves.
Public Health Services Queensland Government	• Noted that if CoO information was included in consumer affairs legislation, it may lead to the situation where two or more government departments are involved in food recalls, making coordination of recall exercises difficult.
<u>'Made in…' and 'Product of…' Issues</u>	
Australian Coffee Board of the Australian Coffee Industry Association Inc.	• The Board raised the issue of confusion among consumers regarding the criteria associated with 'Made in…' and 'Product of…' claims and that these claims could potentially mislead consumers to assume that 'Australian made' products actually contain 100% Australian grown coffee.
Australian Food and Grocery Council (AFGC)	• Noted that at the stakeholders meeting in Sydney the ACCC indicated that they are in contact with their New Zealand counterparts and there is unlikely to be differences in the interpretations of 'Made in…' and 'Product of…' between the two countries.
Australian Honey Bee Industry Council (AHBIC)	• Noted that current TPA does not provide adequate protection from products, which clearly originate from overseas but are marketed under the 'Australian Made' label and consider that this is being used as a brand name to disguise the original CoO. • Noted that imported ingredients, which are clearly used in determining consumer choices, need to be labelled with the CoO. With respect to Royal Jelly, which often originates from China and usually only represents 2.5% of the product but is the primary reason why it is purchased, the 'Australian Made' claim gives the impression that the Royal Jelly ingredient itself originates from Australia having been subjected to rigorous testing and safety checks.
Australian Pork Limited	• Noted that there seems to be consumer confusion regarding 'Australian Made' claims for processed pork as consumers assume these products contain 100% Australian pork.
Coles Myer Ltd	• Noted that there is a need to clarify 'significant ingredients and 'virtually all' processes in section 65AC of the TPA as this would remove ambiguity for industry, enforcement agencies and consumers.
Focus On Responsible Consumption (FORK)	• Noted that the current TPA definition of CoO labelling are insufficient and considers that the 'Product of Australia' claim needs to be more specific regarding the source of overseas ingredients.
Golden Circle Ltd	• Noted that consumers seem to think that 'Made in…' and 'Product of…' are the same.

Health Department of Western Australia – Food Advisory Committee	• Provisions in Part 5 of the TPA do not adequately enable regulatory control over claims that a product is made in Australia, but the ingredients are imported.
National Council of Women of Australia	• Noted that there has been no effective public information campaign regarding the 1998 amendments to the TPA and there is still a misconception that 'Made In Australia' means a genuine Australian product i.e. grown and/or manufactured in Australia.

Option 3 – Self-Regulation

Support – No Support documented in Australian submissions	
Oppose	
Australian Consumers Association (ACA)	• Consider that self-regulation is unacceptable. • On consideration of past Code of Practice initiatives, such as that related to Nutrient Claims, similar scheme will not win consumer confidence for CoOL.
Coles Myer Ltd	• Noted that developing an industry 'Code of Practice' is not appropriate for CoOL as it presents opportunity for non-compliance.
Focus On Responsible Consumption (FORK)	• FORK reject the Self-regulation option because there is: ▪ a reduced incentive for industry to comply; ▪ potential liability to the government and its reputation; and ▪ doubts as to the ability of industry to provide an independent assessment of CoOL breaches and to enforce regulations.
George Weston Foods Limited (GWF)	• GWF does not support the Self-regulation option, as guidelines will not be legally binding and CoOL will be voluntary.
Goodman Fielder	• Stated that this option may lead to a perception that there are no controls over industry statements, even though it is still overarched by fair trading. • Small manufacturers may not be aware that a voluntary code of conduct exists.
National Council of Women of Australia	• Noted that Codes of Practice are not mandatory, cannot be enforced and offer no guarantee or assurance for consumers.
National Foods Ltd	• Suggested there is no benefit in developing and maintaining self-regulating system as it ultimately results in the same outcome as Option 2

Option four – New Proposal/New Standard in Joint Food Code

Support/Drafting Suggestions	
Australian Citrus Growers Incorporated (ACG)	• ACG strongly supports that a statement of the actual CoO should be present on the main label or ingredient list of citrus juice product, in large typeface of at least 3 mm. • In cases of mixed supply, ACG believes that the major (two thirds) ingredient should constitute the CoO, and that this is noted on the main label or ingredient list.
Australian Coffee Board of the Australian Coffee Industry Association Inc.	• In relation to coffee, suggested that guidelines be developed that impose the declaration of the percentage of the ingredients that are grown in Australia with a buffer margin of 10%.

Australian Consumers' Association	• Noted that any CoOL regime should be supported by a comprehensive tracking system to ensure traceability of food imports to ensure consumer safety. • ACA recommends the adoption of a new standard in Volume 2 which prohibits the use of meaningless claims such as 'from local and imported ingredients' and stipulates approved terms to be used in conjunction with origin claims. • Recommend that the Standard should prohibit 'may contain' claims. ACA believes there is a need to define a list of permitted terms such as manufactured, processed, packaged etc., which may be used in conjunction with origin claims. • The Standard should include that: ▪ 'Made in' claims require that at least 85% of the production costs are incurred in the country associated with the claim; ▪ 98% of the ingredients in 'Product of' claims are sourced from the country identified and any ingredients, which differ in origin, must be indicated with the country of origin brackets after the component in the ingredients list on the food label; and ▪ the CoOL of small additives such as tallow, gelatin and milk protein. • Noted that FSANZ's recall of BSE risky foods highlighted that CoO is an essential category in identifying food risks and the current CoO requirements under Volume 1 and the TPA are inadequate to protect Australia from international food risks. • Noted that it is incongruous and irresponsible for FSANZ to encourage consumer involvement in food labelling and extend recommendations for consumers to assess beef products on the basis of CoO and then deny that CoO is a safety issue. • Noted that CoO is one of the key determinants for quarantine services to identify potentially risky food imports entering Australia, highlighted by AQIS, AFFA and FSANZ's coordinated response to the BSE risk which operates on a country-by-country risk classification.
Australian Honey Bee Industry Council (AHBIC)	• Supports the recognition of CoOL in food law taking into account of TPA and fair trading laws with an additional requirement that any ingredients/products meet the same health standards as locally produced products (i.e. residue testing by NRS would be expanded to include imported ingredients/products).
Australian Pork Limited	• Support the development of a Standard in the Code, which ensures mandatory CoOL is consistent with the TPA, Codex principles, and harmonised with New Zealand Regulations. • Noted that mandatory labelling should be extended to include unpackaged processed pork (ham and bacon).
Bob Kucera – Minister for Health Western Australia	• Supports the development of a new Standard that is equally applicable to all foods and that is consistent with the requirements of the TPA and the objectives of the Code in requiring percentage labelling of characterising ingredients.
CAPE Australia	• Enclosed copies of letters, which outline the need for more stringent CoOL requirements as current labelling requirements allow consumers to perceive that inferior imported coffee packed or blended with other ingredients in Australia is in fact Australian grown. • Noted that this is likely to have an adverse effect on the reputation of the Australian Coffee Industry.
Coles Myer Ltd	• Support the requirement for food products to have a CoO statement and that the new Standard should include TPA safe harbour defences. • Noted that current Australian requirements in Volume 1 are preferred to New Zealand Food Regulations as it allows for products to be imported into New Zealand, and then presumably into Australia, without any CoO declaration. • Stated that it is essential to continue the option to declare that ingredients are from an 'imported' source rather than identifying the particular CoO(s) as this would otherwise cause continual changes to labelling to accommodate imported ingredient sourcing changes.

Focus On Responsible Consumption (FORK)	• Noted that a new Standard should not deviate away from the current mandatory requirements, however it would be further strengthened by the inclusion of TPA defences and the CoOL for all ingredients. • Noted that CoOL is essential so government agencies can ensure there is a safe food supply thus maintaining public health, without it, many foods may be unnecessarily withdrawn from food supply resulting in industries that are producing safe food, being unjustly penalised.
George Weston Foods Limited (GWF)	• GWF supports the retention of the current requirements for CoOL for foods as per Volume 1 but should be enhanced by the addition of the requirements of Division 1AA of Part V of the TPA, ensuring that the food industry is treated consistently with other industries in relation to CoO issues. • Noted that the advantages for CoOL in food law include: ▪ Consistent requirements for both Australia and New Zealand; ▪ Requirements and defences, for CoOL of food would be contained within the one document (easier for Business to follow); ▪ Uniform requirements to be applied by enforcement entities across Australia, whether it be through the ACCC, State/Territory Departments of Fair Trading and Health or Local Councils; and ▪ May remove opportunity for confusion for both consumers and business arising from inconsistent enforcement actions by the various regulators.
Golden Circle Ltd	• Noted that development of a new standard is their second preference. The new Standard should require the declaration of all 'significant ingredients or components' in foods which are imported. • Noted that same provision for CoO need to be applied to all foods. This issue was raised in relation to requirements under Standard O2 Clauses 8 and 9 (Vol 1).
Health Department of Western Australia – Food Advisory Committee	• The committee supports a Standard for CoOL requirements that is equally applicable across all foods and that is consistent with both the TPA and the objectives of the Code in requiring percentage labelling of characterising ingredients.
Hon. Wendy Edmond MLA – Minister for Health, Queensland	• Supports the development of a new Standard in Volume 2, which, will help minimise confusion of all labelling requirements for foods. • Noted that the review should result in more harmonisation between Australia and New Zealand.
Mr G.J. Seeds	• Noted that CoO information should be readily available upon request and mandatory CoOL would achieve this objective.
N.S.W. Coffee Growers Association Inc.	• Noted that they support the submission compiled by the Australian Coffee Board of the Australian Coffee Industry Association Inc.
National Council of Women of Australia	• The Council supports the development of a new standard, which is mandatory and is enforced in the same manner as other standards. • Noted that any costs involved with mandatory labelling will eventually be borne by consumers, not manufacturers, who will seek to recoup their costs via price increases. • The council considers that without mandatory CoOL,, FSANZ is not fulfilling Section 10 objectives relating to the provision of adequate information to enable consumers to make informed choices, and the prevention of misleading and deceptive conduct. • Notes that New Zealand has set a precedent of CoOL for cheese and wine and logically this should be expanded. • Noted that the issue of season availability can be addressed by a short list of potential countries being provided. • Noted that with acceptance of a new standard there should be a large-scale education program for both industry and general public.

NSW Health Department	• Favours the inclusion of mandatory requirements for CoOL in the Code but it should be consistent with the TPA criteria. • Noted that the mandatory requirement will not incur new costs to the Australian industry and minimal costs to the New Zealand Industry.
Public Health Services Queensland Government	• Noted that option 4 seems to offer the greatest scope for: ▪ Harmonisation with the trading laws of both New Zealand and Australia; ▪ Allowing CoOL to be recognised in food law; and ▪ Rectifying current deficiencies • Noted that without CoOL of foods, food recalls would be extremely difficult to carry out. CoO information is necessary in the tracking process.
<u>Oppose</u>	
Appledale Processors Co-op Ltd.	• Noted that there is no benefit of having CoOL requirements in both TPA/fair trading legislation and in food law. • Noted that compulsory statements on CoO has no direct influence on FSANZ's main objective of protecting public health and safety.
Australian Food and Grocery Council (AFGC)	• Noted that before FSANZ suggests mandating CoOL it must justify it on the grounds that: ▪ It is essential to provide this information as it will significantly affect purchasing decisions; ▪ There would be market failure if it were not mandated in the Code; and ▪ The information cannot be provided by alternative means. • Noted that the new Standard option is not feasible as it: ▪ Would be inconsistent with Government policy of minimum effective regulation; ▪ Would impose on manufactures/importers the onus of complying with two or three different pieces of legislation and place them in double or triple jeopardy; ▪ Could not be justified under the COAG *Principles for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies;* ▪ Could be inconsistent with Codex; and ▪ Could potentially be inconsistent with other products, where the TPA and fair trading laws are sufficient and enforceable. • Noted that abandoning P237 would be consistent with FSANZ's actions and reasoning in its rejection of Application A395 – *Unit Pricing.* • Noted that the inclusion of CoOL requirements in the Code cannot be justified on the grounds of public health and safety as there are equally effective identification requirements currently required by the Code and the *Commerce (Imports) Regulations 1940 (Cth).* • Noted that FSANZ should not introduce any requirements for CoO until work by the WTO and World Customs Organisation on international harmonisation of rules of origin is complete.
Australian Made Campaign	• Noted that there is no clear rationale for maintaining mandatory labelling on food when it does not exist for other industries. Many businesses voluntarily provide their customers with information about the origin of their products because there is a commercial imperative to do so. • Noted that having differing requirements across a number of regulatory regimes or agencies creates compliance burden for business,

	higher costs and can lead to conflicting interpretation of labelling obligations.
Department Agriculture Fisheries & Forestry Australia (AFFA)	• Noted that even without mandatory provision within the Code, there are at least two layers of commonwealth legislation, which provide protection and advice on this issue in Australia, removing the necessity of a third layer in line with minimum effective regulation principles. • Noted that in 1998 the Ministerial Council concluded that the provision of CoO information was primarily a marketing and trading issue, rather than a public health and safety matter, and therefore regulation was not the most appropriate option according to minimum effective regulation principles. Ministers indicated that their preferred direction was to see a greater reliance on the TPA with FSANZ acting as a facilitator in the development of an appropriate industry based arrangement[1]. • AFFA notes in relation to the outbreak of BSE that all imported meat and foodstuffs must carry CoOL at point of entry into Australia under imported regulations. In addition an amendment to the Code also requires beef and beef products to be sourced from animals that are free of BSE. This amendment is currently before the Ministerial Council. • AFFA also noted that during the 1998 NCP review of the Imported Food Control Act 1992, the Review Committee found that CoOL breaches fell into the lowest class of food failures – 'minor labelling failures', indicating the low level of risk to public health and safety.
Food & Beverage Importer's Association	• CoO information is not a critical factor in effecting product recalls as products names, supplier details and lot identifications are utilised and therefore should not be considered as a requirement to protect public health and safety. • Noted that the prevention of misleading or deceptive conduct is already prohibited under the TPA. • Noted that if there is a mandatory requirement, it should only refer to food for retail sale.
Goodman Fielder	• Noted there is no benefit from duplicating existing fair trading laws that adequately control CoO declarations and there would also be costs in changing standards to maintain consistency with fair trading legislation if/when changes occur. • Noted that the options would involve additional costs for New Zealand. • There is also scope for New Zealand to opt out of a Standard, leaving the same position as is current
International Council of Grocery Manufacturers Associations (ICGMA)	• Noted that if mandatory CoOL for all ingredients was imposed, the costs of label changes would be significant and quoted $10-100 million for foods products sold through Australian supermarkets. • Noted that mandatory labelling for all ingredients would require a myriad of labels to correspond to every possible combination of sources of ingredients.
National Foods Ltd	• Noted that Option 4 proposes to develop new regulations that would recognise the TPA requirements in food law. • NFL suggests there is little benefit as the outcome would be the same as Option 2 – reliance on fair trading laws.
National Meat Association of Australia	• Strongly object to further requirements for the labelling of food as they have recently re-developed their labelling and packaging in order to comply the new Code. • Consider that CoO is not a health and safety issue and FSANZ should concentrate their efforts in the areas that are relevant to food safety or at least areas, which do not currently have legislative force.
Nestlé Australia Ltd	• Noted that any change to the current CoOL requirements will force manufacturers to change labels again after major labelling changes have already been undertaken, brought about by the new Code. It is estimated that the average cost for labelling changes would be in the order of $2000 for each stock-keeping unit.

[1] Please refer to ANZFA references relating to this issue: ANZFSC7 – Minutes, 30 July 1998 and ANZFSC – Item 8.1 (briefing) 30 July 1998.

Unilever Australia Ltd.	• Noted that a requirement for CoOL on all food products by additional regulatory means, other then those set out in the TPA, is not warranted as manufacturers will provide this information regardless, because of the consumer demand.
Enforcement	
Australian Citrus Growers Incorporated (ACG)	• Suggested that juice manufacturers should be required to adjust packaging and labelling immediately in line with 'seasonal availability'. Not acceptable that those manufacturers who are in breach are allowed to use up stacks of existing packages before complying. • Noted that many retailers do not seem to comply with the current CoOL requirements for fresh fruit. This is a monitoring/enforcement issue that should be considered as part of the regulatory framework.
Australian Consumers' Association	• ACA envisages a 'two-tier' system of enforcement. • Basic standard for CoO representations should be set out in the TPA and remain the responsibility of ACCC to enforce. • Additional information and clarification should be required by a new food standard in the Code thereby enacting an extra 'tier' of protection for consumers which is recognised by the imported food control act, and may be enforced by the State and Territory health protection and enforcement agencies.
Australian Pork Limited	• Noted that new Standard would fall under ACCC for enforcement.
Bob Kucera – Minister for Health Western Australia	• Noted that enforcement of CoO would be managed in same manner as other labelling issues, resulting in negligible additional cost and enforcement if incorporated into local government as this work is already undertaken
Focus On Responsible Consumption (FORK)	• Suggested that legislation can be developed so that the ACCC is responsible for implementation and enforcement of a new Standard.
Health Department of Western Australia – Food Advisory Committee	• Noted that enforcement of CoOL requirements should be managed in the same manner as other labelling issues.
Hon. Wendy Edmond MLA – Minister for Health, Queensland	• Noted that recent international developments have proven that CoO issues may be related to the safety of food (BSE, irradiated food, GM food and novel foods) and are best dealt with by the same enforcement agencies.
National Council of Women of Australia (NCWA)	• NCWA supports enforcement of food labelling residing with Health Departments, with delegation to local governments and AQIS enforcing at the import level.
NSW Health Department	• CoOL requirements could be either enforced under food law or by the ACCC under the TPA.
Public Health Services Queensland Government	• Acknowledged that enforcement in the area of food labelling is a major issue as successful enforcement of the legislation must have support of the agencies to carry this out. • Noted that FSANZ will need to consider if Health Departments are able to conduct audits in the area of food labelling generally, & the effectiveness of actions taken when audits are carried out or complaints are responded to. • Noted that ACCC undertakings appear to be the main enforcement activity that is being undertaken with regard to false CoO claims at this time.
Unilever Australia Ltd.	• Unilever requested an extension to the proposed transition period for compliance with ANZFSC with regard to further changes to labelling requirements, depending on the outcome of CoOL review.

Consumer Information

Australian Citrus Growers Incorporated (ACG)	• Acknowledged research conducted by the Australian Made Campaign which indicated that 80% of consumers seek Australian products and 30% will always buy Australian made.
Australian Competition & Consumer Commission (ACCC)	• Noted that while there is no general duty of disclosure in the TPA, including origin claims, it is up to a business to make sure that the combination of what is said and what is left unsaid does not give consumers the wrong overall impression.
Australian Consumers' Association (ACA)	• Noted that consecutive surveys have demonstrated consumers' need for accurate CoO labelling for food. Past surveys have also highlighted the discrepancy between consumer understandings of country of origin representations and that which are supported by the TPA. • Noted a survey conducted by Ministry of Health found that 83% of respondents said it was 'very important or 'quite important' for CoO information to be on food packages as cited in the National Food Authorities submission Industry Commission Draft Report Packaging and Labelling (page 14 December 1995). • ACA have conducted an independent phone survey in January 2001, approximately two weeks after FSANZ's advice to consumers to check the labels on any imported foods and discard products that contain beef with a European CoO. 85% of the 300 respondents indicated that they strongly agree or agree that food labels should name the origin of all imported ingredients. • ACA highlighted the inadequacies of FSANZ's recommendation to check CoOL in relation to the BSE, as products carrying a 'Made in Australia' label, may be made from imported ingredients and 'Product of Australia' labels also allow a small percentage of imported ingredients, such as bovine derived products including gelatine, tallow and milk.
Australian Made Campaign	• Noted their research has revealed that up to 80% of survey respondents consciously look for 'Australian made' goods. However, buying behaviour depends on the product itself, for instance consumers will seek out and purchase Australian fresh and processed food products more often than they will other types of products. • Noted that CoOL is not an adequate source of information on public health or safety issues, these are best dealt with under other labelling provisions and policy mechanisms.
Australian Pork Limited	• Noted that improved CoOL requirements ensures consumers have useful information about the level of risk they are taking.
Bob Kucera – Minister for Health Western Australia	• Noted that consumers should be provided with clear and truthful information about CoOL to enable an informed purchasing choice.
Focus On Responsible Consumption (FORK)	• Noted that without CoOL, consumers are denied their ability to support Australian farmers and food manufacturers and to consider health and environmental factors.
Food and Beverages Importers Association	• Noted that there should be evidence to show that origin labelling is needed to enable consumers to make informed choices and that alternatives means, other than mandatory labelling, are not available. • Noted that food regulation does not, as a rule, require information that may be related to quality, ethical, environmental or religious matters.
George Weston Foods Limited (GWF)	• Acknowledged research conducted by Sweeney in May 1999 on behalf of Department of Industry, Science and Resources, to determine customer attitudes towards and awareness of CoOL, which noted that there are clear marketing advantages for manufacturers to include CoO on their products.

Golden Circle Ltd	• Support the view that consumers should be provided with clear and truthful information about the CoO of food.
Goodman Fielder	• Noted that marketers will always provide information requested by their consumers and there has been no evidence in their business to suggest that CoO is a major consumer information requirement. • Noted that the main purpose of providing CoO information is to allow consumers to identify foods from countries they wish to avoid. These needs are satisfied by the *Commerce (Imports) Regulations 1940*, which specifies that all imported food be labelled as to their country of production.
Health Department of Western Australia – Food Advisory Committee	• The Committee noted that consumer research indicates a high proportion of consumers want CoOL and believe this information is important when purchasing fresh foods and packaged foods.
International Council of Grocery Manufacturers Associations (ICGMA)	• Noted that CoOL has no relation to public health or food safety. • Noted that mandating CoOL across the board or expanding to include all ingredients would be burdensome, impractical and provide no additional benefit to the consumer.
Mr G.J. Seeds	• Mr G.J. Seeds noted that he had several attempts to clarify the country of origin of meat products, which he had purchased, fearing they could have derived from batches contaminated with BSE and Foot and Mouth disease.
National Council of Women of Australia	• Noted that the CoO should always be declared as this information allows consumers to make informed purchasing choices and also provides an avenue for consumers to take responsibility for their own health.
National Meat Association of Australia.	• Noted that consumer information regarding the CoO is not just in relation to food and therefore strategies to make labelling requirements more stringent are better handled by amending the fair trading laws. This would impose reform across the entire market not just the food industry.
NSW Health Department	• Noted that there are no obvious health and safety issues, but the provision of consumer information remains an important incentive for the retention of the mandatory CoO provisions.
Public Health Services Queensland Government	• Noted that the provision of adequate information, which enables consumers to make informed choices and to prevent fraud and deception, is no longer the chief rationale on which CoOL is justified. There are significant public heath and safety issues to be considered for instance outbreaks of BSE and introduction of genetically modified foods. • Noted that many consumers make conscious efforts to buy Australian.

International Considerations / Codex

Nestlé Australia Ltd	• Nestle suggested that if mandatory CoOL remains in the Code then the Codex Standard should be adopted, where foods are required to declare CoO where it's omission would be misleading. Noted that this is consistent with fair trading laws in both countries.
Australian Coffee Board of the Australian Coffee Industry Association Inc.	• Noted that Codex law is inadequate relating to the provision where CoO is considered as the last country in which changes have been made to the nature of the food. The board considers that the CoO, for coffee products in particular, is where the bean was grown.
Australian Consumers' Association (ACA)	• Noted that the Codex General Standard is inadequate for the purposes of ensuring public health and safety of foods. • Noted that Codex Alimentarius Committee of Food Labelling has agreed to a review of CoOL with the view to tightening the requirements to meet consumer needs. ACA believe that FSANZ has a responsibility to further this push in keeping with its primary objectives.

Australian Food and Grocery Council (AFGC)	• Noted that for consistency with the international situation (UK, EU, USA, NZ and Codex) and to fulfil Australia's obligations under the WTO, FSANZ must either; ▪ Not include any CoO requirements in the Code; or ▪ Include the Codex provision
Australian Honey Bee Industry Council (AHBIC)	• AHBIC does not support the Codex general standard, which defines CoO as the last country in which the food last underwent processing which changed its nature.
Australian Made Campaign	• Noted that CoO rules ought to comply with international obligations in relation to WTO and Codex if proposed as part of the Code.
Canberra Wine Bureau *	• Noted there is a great need for consistency in international positions on CoOL. • Noted that the variation between laws of individual countries for CoO increases the potential threat to the international reputation of Australian Wines. For example, some CoO laws allow Australian and New Zealand bulk wine to be blended with products of other countries but can still be labelled as 'Product of Australia or New Zealand', this also relates to where wine is made overseas using Australian grapes, must or concentrate. In these cases, the wine is not usually produced to the quality standard required by the FSC and /or the *Australian Wine and Bandy Corporation Act 1980.* • Noted that rules of origin for wine, grapes and must will in due course be considered by a Committee on Rules of Origin in the WTO and a Technical Committee on Rules of Origin, under the auspices of the World Customs Organisation. • Noted that the 28th session of the Codex Committee on food labelling held in May 2001 it was agreed that the committee seek approval from the commission to undertake new work on an amendment to the general standard regarding CoOL.
Coles Myer Ltd	• Noted that there is no advantage to align CoO requirements with current Codex regulations as these are currently under review.
Department of Agriculture, Fisheries and Forestry – Australia (AFFA)	• Noted that the Codex Standard does not require mandatory CoOL, which therefore places Australia in excess of international requirements and may provoke retaliatory action from trading partners. • Noted that a Discussion Paper put to the Codex Committee at the Food Labelling meeting in Ottawa Canada in May 2001 proposing a review of CoOL requirements, proposed definitions for 'product of..' and 'made in..' that are consistent with the TPA definitions. • Noted that the paper proposed the examination of CoOL for all ingredients to which Australia oppose because of its apparent unworkability, as the global trade in food and food ingredients and batch to batch variation in ingredients makes it impossible to reliably and consistently identify the origin of individual ingredients.
International Council of Grocery Manufacturers Associations (ICGMA)	• ICGMA noted that the CODEX general standard already requires CoOL in cases where its omission would mislead or deceive the consumer and is appropriately focused on the objective of preventing consumer deception rather then providing unnecessary CoO information.
National Council of Women of Australia.	• The council does not support the Codex interpretation that the second country where processing is carried out is regarded as CoO. • Noted that new work has been proposed for Codex regulations prompted by concerns that label are failing to provide sufficient consumer information.
Public Health Services Queensland Government	• Queensland Health argue that the CoO should not be considered as that as defined in the Codex General Standard. Noted that other documented definitions also present the difficulty in attempting to interpret what the CoO actually is, including the safe harbour tests under the TPA. On the consumer side, the reasonable person could well assume that the entire process of food production occurred in the country stated on the pack. • Noted that it could be difficult to introduce provisions that are more restrictive (or require the provision of further information) than those requirements that already exist in the Codex.

Trade / Importation Considerations

Australian Competition & Consumer Commission (ACCC)	• Noted that there is currently a review of the *Commerce Trade Description Act 1905*. • If the Act is repealed it could leave a void regarding general disclosure of CoO information, which would be covered by making permanent CoOL provisions in the Code. • Noted that Section 53(a) of the TPA is also relevant to CoO information in relation to representations made about the history of the goods. (*ACCC v Lovelock Luke Pty Ltd 1997 ATPR 41-594)*
Canberra Wine Bureau* *Representation by Wine Institute of New Zealand, Winemakers Federation of Australia and the Australian Wine and Brandy Corporation	• Noted that any changes to CoO requirements must be consistent with the agreement on Trade Related Intellectual Property Rights (TRIPS)
Department of Agriculture Fisheries & Forestry – Australia (AFFA)	• Noted that the WTO Agreement on TBT requires that standards be based on international standards except where they would be inappropriate or an ineffective means of achieving legitimate objectives – they must not be more trade restrictive than necessary to fulfil a legitimate objective. • Noted that previously Australia has voiced strong opposition to bills in the US and Canada proposing mandatory labelling for meat products imported into these countries, claiming that this will act as a barrier to trade and will add unjustifiable costs to Australian products. • Noted that CoOL is critical in preventing the incursion of exotic pests and diseases as many foods, whether raw, semi processed or highly processed can pose a quarantine risk. • Noted the *Commerce Trade Description Act 1905* and associated regulations are currently the subject of a National Competition Policy Review. If this legislation is repealed and mandatory provision are removed from the code (thereby removing the provision from the Imported Food Control Act 1992), it may potentially create a quarantine risk.
Food and Beverages Importers Association	• Noted that the origin of imported goods must be declared to customs and AQIS often requires additional information before allowing food into the country to ensure the protection of public health and safety.
International Council of Grocery Manufacturers Associations (ICGMA)	• Consider that, under existing trade rules of the WTO Agreement and Technical Barriers to Trade, mandatory CoOL would most likely create an unnecessary obstacle to trade with no legitimate or internationally recognised justification.

Stuart Alexander & Co Pty Ltd.	• Noted that at present there is no regulation for authorised importers of products, and therefore high potential risk of parallel imports, i.e. someone other than the authorised distributor or actual owner may import the same product which is meant for another country without re-labelling in accordance with law. • Issues concerning parallel importing in the food industry include: ▪ Safety – if food is brought into Australia that is meant for another market, it may not meet the same safety standards; ▪ Quality – Poorer quality of reputable brands due to age of product or warehousing conditions. Product may have a variation of recipes depending on tastes of the original country of destination; ▪ Brand Reputation is compromised; ▪ Australian Jobs – parallel imports reduce profits of licensed distributor ▪ Increased likelihood of product recalls; and ▪ Price – parallel imports are often lower in price, often products are out of date and it is difficult for consumers to have any recourse as parallel importation companies are not well known and are often short term businesses.

New Zealand Submissions

Option 1 – Status Quo

Support – No support documented in New Zealand Submissions	
Oppose	
Foodstuffs (N.Z.) Ltd.	• Foodstuffs are generally in support of the principle of harmonisation and therefore do not support the Status Quo.
New Zealand Dairy Board	• Noted that Option 1 does not equate to status quo for New Zealand and therefore the fact that provisions are well known in Australia is not an advantage to New Zealand as indicated in the Issues paper.
New Zealand Grocery Marketers Association (GMA)	• Noted that the Status Quo option presents disharmony between Australia and New Zealand, which undermines the intent of the treaty.
The National Organisations for Fruit and Vegetable Growers	• Noted that if status quo was to be retained, New Zealand with the lower CoOL regime, could possibly act as a backdoor entry point for products, which are not labelled according to Australian Standards.

Option two – Reliance on Fair Trading Laws

Support	
Consumers' Institute of New Zealand Inc.	• Note that whilst option 2 is the Institute's preferred option, it is a 'second best' option. The Institute recognises that option 2 is unlikely to create unnecessary compliance costs, still ensures accurate information is provided and will not create inconsistency with other products or need for significant education/compliance programs.
Federated Farmers of New Zealand (Inc)	• Noted that New Zealand already has sufficient legislation in the Fair Trading Act to prevent misleading claims regarding CoO. • The Federation supports Options 2 Relying of Fair Trading Laws and Option 3 Self –regulation, as the most cost effective means of providing consumers with useful information on a product. • Noted that it is appropriate that FSANZ develop definition or criteria for use of 'Made in…' and 'product of…' statements.
Foodstuffs (N.Z) Ltd.	• Noted that this option would effectively bring Australia in line with the current arrangement in New Zealand where reliance on fair trading legislation has worked effectively. • Acknowledged that there are subtle differences in the New Zealand and Australian legislation, but are not aware of this causing any problems in the practical application of the law in either country. • Noted that this option would put manufacturers and marketers in both countries on a similar footing, without increasing compliance costs.
Ministry of Health – New Zealand	• Consider that there are already sufficient fair trading laws and food law in place to protect consumers from misleading or deceptive conduct and question the need for duplicating regulation.
New Zealand Grocery Marketers Association (GMA)	• Noted that reliance on the Fair Trading Act has worked well in New Zealand and has proved to be the most effective way of managing CoO representations.
Oppose	
The National Organisations for Fruit and Vegetable Growers	• Noted that trade practices legislation should primarily be concerned with the accuracy of information, rather than which information is provided
Enforcement	
Consumers' Institute of New Zealand Inc.	• Noted that ACCC and Commerce Commission would be responsible for enforcement assuming reliance on Fair Trading Laws. • Noted that the Fair Trading Laws may need to be amended to avoid inconsistency with CODEX and to ensure consistency between Australia and New Zealand.

Option 3 – Self-Regulation

Support	
Foodstuffs (N.Z.) Ltd.	• Support the option in principle, as Codes of Practice can be useful in bringing about greater consistency in industry practices.
Ministry of Health – New Zealand **	• Suggested the development of a code of practice that describes how CoO claims could be made on a voluntary basis, however, it will need to reconcile the different approaches to CoO representations under the TPA and Fair Trading Act.
New Zealand Dairy Board	• NZDB noted that there may be some value in developing 'accepted phrases' to be adopted by industry groups and consumer organizations, however would not have any direct legislative or regulatory force.
Retail Merchants Association of New Zealand +()	• Noted that both members represented see that a voluntary industry code of practice could be the best method to look at implementing the concept, rather than a mandatory approach. • Suggested that such a code could be developed in association with the Advertising Standards Authority in New Zealand and other sectors of industry. • Noted that it may be desirable for FSANZ to commission an independent analysis to determine the clear costs and benefits arising from the options.

Option four – New Standard in Joint Food Code

Support	
Ms P. Atkinson	• Supports that all food, including all ingredients, should be labelled with CoO
Independent Fisheries Ltd.	• In principle, agree to the development of a new Standard. • Noted that they could suffer negative feedback if imported ingredients have to be declared as currently their outer packaging is required to be labelled with 'Product of New Zealand', regardless of whether some of the ingredients are imported, under the New Zealand Fishing Industry Agreed Standards, Section 004.1 labelling circular 1995, issued by Ministry of Fisheries. • Noted that as the review of CoOL is not due to be finalised until 2002, this could impose significant additional costs as industry may be required to make changes to labels after having made initial changes to comply with other requirements in the Code.
New Zealand Pork Industry Board	• Supports the extension of CoO requirements under Standard 1.1.3 to cover New Zealand with additional provisions to cover processed pork products in the same way that Volume 1 imposes CoO declarations for fish, vegetables, nuts, spirits and liqueurs and fruits etc.
Tatua Co-Op Dairy	• Preferred regulatory option is to develop new Standard in the Code, which is based on existing legislation.
The National Organisations for Fruit and Vegetable Growers	• The Federation supports the adoption of mandatory requirement for CoOL with point of sale labelling for foods sold loose. • Noted that requirements for Australia and New Zealand need to be consistent. • The Federations consider that it is appropriate that CoOL requirements reside in the Code, together with other food requirements. • Do not consider that there would be significant costs in moving to mandatory CoOL provided there is sufficient lead in time, the provisions are consistent with other international market requirements and labelling of loose products can be through point of sale tags.
Oppose	
Consumers' Institute of New Zealand Inc.	• Noted that there aren't any particular advantages to CoOL in food law, as traders in both Australia and New Zealand already understand what is meant by 'misleading and deceptive' conduct.

Federated Farmers of New Zealand (Inc)	• The Federation considers that mandatory CoOL is not necessarily consistent with FSANZ objectives. • Noted that food producers may incur additional costs for mandatory CoOL particularly where several countries have been involved in production process. • Noted mandatory CoOL may be of little benefit to consumers that associate brand names with the quality of the product.
Foodstuffs (N.Z.) Ltd.	• Noted that mandatory CoOL would impose significant compliance costs on those industry participants that do not currently include CoO information on their product labelling. • Noted that labelling changes take some time to implement (typically 12 to 18 months) and food manufacturers are already moving to implement the changes dictated by the adoption of the joint code, adopting mandatory CoOL would necessitate an additional one-off changes to labelling with all its attendant costs.
Ministry of Health – New Zealand**	• New Zealand Government officials oppose a mandatory CoOL regime in the Code. • New Zealand food manufacturers would incur proportionately greater costs for mandatory CoOL than Australian counterparts due to the smaller New Zealand food market and greater reliance on sourcing overseas ingredients. • Noted that mandatory labelling may create an unnecessary barrier to trade which conflicts with Article 2 of the Australia New Zealand Joint Food Standards Treaty and giving Australian manufacturers an advantage in the Australian market. • Noted that CoOL undermines the facilitation of trade achieved by a single set of food standards and the objective of a single trans-Tasman market. • Noted that mandatory CoOL may create a disincentive for Australian manufacturers to continue to use New Zealand sourced ingredients.
New Zealand Dairy Board	• Consider that mandatory CoOL of food is not necessary or appropriate as it is not a food safety issue, but rather a consumer choice issue, which should be addressed by the market.
New Zealand Grocery Marketers Association (GMA)	• Noted that CoOL is not required for public health and safety reasons as there are other mechanisms in place such as bar coding, which adequately identify food products in the event of product recalls. • Noted that Fair Trading Act provisions already ensure that origin claims must not be misleading or deceptive and require additional qualifying statements if the address details gave the impression that imported ingredients originated from the location specified. • Noted compliance with CoOL requirements would impose a high cost on manufacturers. • Noted that mandatory CoOL requirements would disadvantage New Zealand as manufacturers are highly dependent on imported ingredients, so meeting 'Made in…' and 'Product of…' claims would be difficult. • Noted that manufacturers are currently incurring substantial costs in implementing the labelling changes required under the new Code and another labelling requirement could impose additional costs. • Consider that mandatory CoO in the Code is unnecessary and runs counter to the Australian Government's stated intention of minimum effective regulation and New Zealand government's aim to remove or reduce costs of unnecessary regulation. • Concluded that the proposal should not proceed.

Enforcement	
New Zealand Dairy Board	• Noted that CoOL is a regulatory matter which health authorities should not be engaged in.
The National Organisations for Fruit and Vegetable Growers	• Noted that enforcement of mandatory CoOL included in the Code would reside with the agencies involved in other food labelling issues.

Consumer Information

Consumers' Institute of New Zealand Inc.	• Noted that some consumers actively seek CoO information when purchasing goods especially food. • The Consumers' Institute recognises it may not be possible to meet the information needs of all consumers without insisting on CoO information for all ingredients, however, cost and trade considerations suggest that such a comprehensive labelling regime cannot be justified.
Federated Farmers of New Zealand (Inc)	• Noted that competitive markets adapt more readily to changes in consumer demand, compared to regulatory alternatives.
Foodstuffs (N.Z.) Ltd.	• Noted that whilst CoOL is not currently required in New Zealand, many manufacturers already label voluntarily. • Consider that additional benefits consumers would receive from mandatory CoOL would be difficult to quantify and probably result in insignificant benefits • Noted that CoO labelling does not impart any useful information about a food's safety (all foods are required to meet minimum food safety standards, regardless of origin) or nutritional value.
Ministry of Health – New Zealand**	• Noted that the proposal needs to be considered in context of wider industry and trade policies particularly the promotion of 'buy Australian' and 'buy New Zealand' campaigns which seem to be the major driving force behind the provision of CoO information. • Noted that no public health issues were identified although acknowledged that some consumers perceive that there are, from time to time, food safety issues surrounding the CoO of some foods. • Noted that unless CoO information is provided for all ingredients then the mandatory requirement would not be meaningful to consumers. However, labelling all ingredients is not considered as realistic and would impose significant compliance costs on industry and could be confusing for consumers. • Noted that the New Zealand food consumer is used to a more international food supply than Australian counterparts. • Noted that consumers should be encouraged to make their food purchasing decisions on the basis of the quality and nature of ingredients, nutrition status, product utility, price and the reputation of the manufacturer, not by origin labelling.
Ms P. Atkinson	• Noted that CoOL allows consumers to: ▪ Support locally grown produce ▪ Choose foods, which they feel have better growing and post-harvest conditions.

New Zealand Grocery Marketers Association (GMA)	• Noted that CoOL does not seem to be a major information request from consumers and if the information is sought, there are other avenues such as consumer information hotlines that can be utilised. • Note that consumers will not be misled as the Fair Trading Act prohibits misrepresentation.
New Zealand Pork Industry Board	• Noted that New Zealand consumers have a right to CoO information, as do Australian Consumers. • Noted that New Zealand consumers are not aware that the ham and bacon they purchase may derive from imported pork
The National Organisations for Fruit and Vegetable Growers	• Noted that there are increasing supplies of fruit and produce being imported into New Zealand and as there is no requirement to label with the CoO, which is potentially misleading for consumers who assume that the products are New Zealand grown. • Noted that CoO labelling will enable consumers to exercise choice and consider the following issues: ▪ A desire to support local industries; ▪ Food safety concerns regarding products from other countries e.g. 3rd world countries; ▪ Use of GE technology and risk of contamination in some countries; and ▪ Ethical/human rights issues in some countries.

International Considerations / CODEX

Federated Farmers of New Zealand (Inc)	• The Federation supports the Codex General Standard for labelling of pre-packaged foods in that the CoO should be labelled if its omission would mislead or deceive the consumer.
Foodstuffs (N.Z.) Ltd.	• Believe it would be unwise for FSANZ to implement a mandatory standard for CoOL until Codex has finalised its position on this issue.
National Organisation for Fruit and Vegetable Growers	• Noted adoption of mandatory CoO labelling is consistent with Codex General Standard for labelling pre-packed foods, section 4.5, 'the country of origin should be declared if its omission would mislead or deceive consumer'. Noted that this requirement should be extended to unpackaged products through point of sale labelling.
New Zealand Dairy Board	• NZDB's position is that no single option should be forwarded as the 'preferred solution' until a greater degree of international consensus/uniformity exists. WCO/WTO's efforts to determine a global solution should be considered. • Noted that CoO declarations are not related to health and safety issues but most relevant to trade practices issues. • Note that NZ Fair Trading Act is based on clause 4.5 of the Codex Standard and consider this to be adequate at the present time.

Trade Considerations

New Zealand Grocery Marketers Association (GMA)	• Noted that mandatory CoOL could create an unnecessary obstacle to trade with no legitimate or internationally recognised justification such as prevention of deceptive practices, protection of human health and safety or national security considerations.

** Representation from Ministries of Health, Foreign Affairs & Trade, Agriculture & Forestry, Economic Development and Consumer Affairs

+ Representation from Woolworths NZ Ltd and Progressive Enterprises Ltd