



NEW ZEALAND

High Commission CANBERRA
11, WILSON STREET

15 August 2011

Craig Thomson, MP
Chair of the House Economics Committee
Parliament House
Canberra ACT 2601
AUSTRALIA

Dear Sir

Inquiry into the Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011

Thank you for the opportunity to provide a submission to your enquiry into the Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011 (the Palm Oil Bill). This submission is made on behalf of the New Zealand Government.

Trans Tasman context

The New Zealand Government places a high value on the trans-Tasman relationship. It is founded on many years of shared history and common values. The extent of the relationship is supported by the *Australia New Zealand Closer Economic Relationship Free Trade Agreement* (CER), signed in 1983. This treaty is internationally recognised as a high quality, comprehensive trade agreement.

The New Zealand and Australian economies have achieved significant integration under CER, benefiting stakeholders on both sides of the Tasman. One of the best examples of integration is the *Agreement Between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System* (the Food Treaty). Since the Food Treaty was signed in 1996, food regulation between the two countries for composition and labelling standards has become almost fully harmonised.

The practical effect of the Food Treaty is that there is one set of food standards for businesses and for consumers applied across both our countries. This system reduces the cost of doing business and increases the range of products available to consumers. In addition, the system is underpinned by one of the world's most respected food safety assessment bodies, Food Standards Australia New Zealand (FSANZ).

The success of the joint system for all stakeholders depends on ensuring differences are minimised and that standards are jointly developed and applied to the maximum extent possible. The Parties to the Food Treaty have taken this responsibility particularly

seriously and the joint system has become internationally recognised for its effectiveness.

In 2009, our respective Prime Ministers committed to enhancing the relationship under CER. In a joint policy statement, the Prime Ministers recognised the global economic downturn pledging renewed ambition to achieve new levels of trans-Tasman economic integration. The statement set out some key areas to advance including the need to 'accelerate regulatory harmonisation and alignment in order to stimulate business and create jobs'.

In the current world economic climate, the value to both countries of the close relationship serves as a timely reminder of the importance of maintaining even the most familiar of treaties. We urge the Committee to consider the need to maintain the integrity of the joint system by not supporting measures that would ultimately reduce the effectiveness of that joint system for our stakeholders.

Application of the Food Treaty to this Bill

The Food Treaty has a number of provisions that ensure the joint system maximises the opportunity for harmonisation. I wish to draw the Committee's attention to two Articles that are of particular relevance to the Palm Oil Bill:

Article 4(4): Australia shall not introduce any amendments to the Australian legislation establishing the authority, or move that any government amendments to that legislation, without effective consultation with New Zealand during their development...

Article 5(3): Subject to Annexes D and E of this Agreement, neither Member State shall by legislation or by other means establish or amend a food standard falling within the scope of this Agreement other than in accordance with this Agreement.

New Zealand is concerned that the process by which this Bill was developed and introduced is not consistent with these obligations agreed to by the Parties to the Food Treaty.

In addition, Annex A sets out the *Principles Underpinning the Australia New Zealand Food Standards System*. While one such principle includes 'the provision for adequate information relating to food to enable consumers to make informed choices' Annex A also sets out additional principles for how food standards are to be developed (Annex A part (2)). In particular, I am concerned about the Palm Oil Bill's consistency with these principles, namely that food standards be: b) developed with regard to the objective of promoting trade and commerce; c) consistent with the obligations of both Member States under the Agreement establishing the World Trade Organisation done at Marrakesh on April 1994; and f) subject to the principles set out in Parts B, C, and D of the *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies* endorsed by the Council of Australian Governments and the New Zealand Code of Good Regulatory Practice.

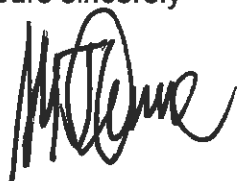
International obligations

New Zealand and Australia are both major suppliers of food in the international market. Both our countries benefit from a rules-based international trading system and, as a result, we have both taken on significant roles in promoting adherence to international obligations.

Non-tariff trade barriers are a growing problem facing our countries in international markets. With these points in mind, I wish to draw the Committee's attention to Australia's obligations under the Technical Barriers to Trade ('TBT') Agreement, in particular Articles 2.1 and 2.2. Article 2.1 obliges members to ensure that imported products are accorded treatment no less favourable than that accorded to 'like products' of national origin or originating in any other country. Article 2.2 obliges members to ensure technical regulations are necessary to fulfil a legitimate objective, and if so, are no more trade-restrictive than necessary to do so. Further there should be no less trade restrictive alternatives available that would achieve the policy objectives available (such as voluntary labelling schemes, for example). New Zealand trusts the Committee will assess consistency with these obligations when reviewing the Palm Oil Bill.

Thank you for considering this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Martyn Dunne', written in a cursive style.

Major General (Rtd) Martyn Dunne, CNZM
High Commissioner