

28 October 1998
4/99

EXPLANATORY NOTES

PROPOSAL P150

ANZ STANDARD FOR FOOD ADDITIVES

The Australia New Zealand Food Authority has before it a proposal to amend the Australian *Food Standards Code* to provide for a joint ANZ Standard for Food Additives. The policy paper "The Regulation of Food Additives", published in March 1996, was used as the basis for the development of a proposed draft Australia New Zealand General Standard on Food Additives.

The way in which the objectives are to be achieved is discussed in detail in the policy paper. The paper also sets out three aims, in priority order, for a revised food additive standard.

1. To ensure that the intake of food additives from the food supply does not present a risk to public health and safety.

The standard should establish maximum permitted levels for food additives in relevant foods where a potential risk to public health and safety may be identified. The levels of additives which may be added should be established on the basis of a risk analysis. This should take into account appropriate measures of safety (such as the acceptable daily intake of the additive), levels of addition required to achieve relevant technological functions, and estimated daily intakes from all relevant foods.

2. To ensure that consumers are not exposed unnecessarily to high levels of food additives.

The establishment of limits may be appropriate where there is seen to be a risk of fraud and deception from the use of a food additive in particular foods or categories of foods.

3. To facilitate both the consumers' desire to exercise choice and innovation in food technology by applying the minimum restriction on use consistent with GMP.

It is proposed that the use of food additives be regulated by reference to the technological function being performed. This is consistent with the approach taken in the European Union directives on food additives and by the Codex Committee on Food Additives and Contaminants in developing the Codex general standard for food additives.

The safety of food additives has been assessed in accordance with the ANZFA policy paper "Framework for the assessment and management of food-related health risks".

The DIAMOND system was used in accordance with the ANZFA policy paper "Dietary Modelling: principles and procedures" to assess potential exposure to food additives and ensure that acceptable levels of consumption, as defined for example by the acceptable daily intake (ADI), would not be exceeded.

This proposal presents the most effective means of achieving the aim of ensuring that the intake of food additives from the food supply does not present a risk to public health and safety. This outcome also means that consumers are not exposed unnecessarily to high levels of food additives, while facilitating both the consumers' desire to exercise choice, and innovation in food technology, by applying the minimum restriction on use consistent with GMP.

PROPOSED JOINT AUSTRALIA NEW ZEALAND FOOD STANDARD

Attached.

REGULATORY IMPACT ANALYSIS

The Authority develops food regulation suitable for adoption in Australia and New Zealand. It is required to consider the impact, including compliance costs to business, of various regulatory (and non-regulatory) options on all sectors of the community which includes the consumers, food industry and governments in both countries. The regulatory impact assessment will identify and evaluate, though not be limited to, the costs and benefits of the regulation, and its health, economic and social impacts. In the course of assessing the regulatory impact, the Authority is guided by the Australian *Guide to Regulation* (Commonwealth of Australia 1997) and *New Zealand Code of Good Regulatory Practice*.

To assist in this process, comment on potential impacts or issues pertaining to these regulatory options is sought from all interested parties in order to complete the development of the regulatory impact statement. Public submissions should clearly identify relevant impact(s) or issues and provide support documentation where possible.

Consideration of the Regulatory Impact for this proposal concludes that there are four options available. The first is to adopt the existing New Zealand regulations. While this option would be beneficial to the New Zealand food industry, the Australian industry would suffer increased costs, increased competition from foods manufactured in New Zealand, restricted consumer choice, and possibly reduced quality of products. Public health and safety would continue to be protected at the level that currently applies in New Zealand. The cost to the Government to prepare a new standard would be minimal, however these regulations may not be entirely consistent with the principles of the SPS and TBT agreements.

The second option is to adopt the existing Australian regulations. The New Zealand industry could face increased costs, increased competition from foods manufactured in Australia, restricted consumer choice, and possibly reduced quality of products. Public health and safety would continue to be protected at the level that currently applies in Australia. The cost to the Government to prepare a new standard would be minimal, however these regulations may not be entirely consistent with the principles of the SPS and TBT agreements.

The third option is to develop standards based on the sum of food additive permissions from the Australian and New Zealand regulations. Consumer confidence could be diminished under this option, as the use of many food additives would not be required to be linked to defined technological functions or to be consistent with Good Manufacturing Practice. Innovation within the food industry would be limited. Public health and safety would continue to be protected at the lowest common denominator of the current Australian and New Zealand regulations. The cost to the Government to prepare a new standard

would higher than those associated with the first two options, however these regulations may not be entirely consistent with the principles of the SPS and TBT agreements.

The fourth option is to develop a new standard to implement the policy paper on the regulation of food additives. Public health and safety would be protected at a level that could be justified against internationally recognised risk assessment and management criteria. Consumer confidence would be enhanced, and innovation would be encouraged. Certain consumers may have concerns about less prescriptive regulations, however, this is balanced against a greater emphasis on the requirement that, even where it is permitted by the standard, additives may only be used where the use is consistent with good manufacturing practice.. The costs associated with this option are significantly greater than those for the other three options, however the regulations would be consistent with policies adopted by Codex, the EU and Canada.

WORLD TRADE ORGANIZATION (WTO) NOTIFICATION

Australia and New Zealand are members of the WTO and are bound as parties to WTO agreements. In Australia, an agreement developed by the Council of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory. Under the agreement between the Governments of Australia and New Zealand on Uniform Food Standards, ANZFA is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

In certain circumstances Australia and New Zealand have an obligation to notify the WTO of changes to food standards to enable other member countries of the WTO to make comment. Notification is required in the case of any new or changed standards which may have a significant trade effect and which depart from the relevant international standard (or where no international standard exists).

Matters relating to public health and safety are notified as a Sanitary or Phytosanitary (SPS) notification, and other matters as a Technical Barrier to Trade (TBT) notification.

This matter does need to be advised to the WTO as a TBT Notification because it contains proposed changes to food standards, to prevent potentially deceptive uses of food additives, which could have impacts on the compositional requirements of foods imported into Australia and New Zealand.

This matter does need to be advised to the WTO as a SPS Notification because it contains proposed changes to food standards, to protect public health and safety in the use of food additives, which could have impacts on the compositional requirements of foods imported into Australia and New Zealand .

FOOD STANDARDS SETTING IN AUSTRALIA AND NEW ZEALAND

The Governments of Australia and New Zealand entered an Agreement in December 1995 establishing a system for the development of joint food standards. The Australia New Zealand Food Authority is now developing a joint *Australia New Zealand Food Standards Code* which will provide compositional and labelling standards for food in both Australia and New Zealand.

Until the joint *Australia New Zealand Food Standards Code* is finalised the following arrangements for the two countries apply:

- Food imported into New Zealand other than from Australia may comply with either the *Australian Food Standards Code*, as gazetted in New Zealand, or the *New Zealand Food Regulations 1984*, but not a combination of both. However, in all cases

maximum residue limits for agricultural and veterinary chemicals must comply solely with those limits specified in the New Zealand *Food Regulations 1984*.

- Food manufactured in Australia and sold in Australia or imported into New Zealand from Australia must for most products comply solely with the Australian *Food Standards Code*. However clause 3 of Standard T1 allows for certain specified foods to be manufactured in accordance with the relevant provisions of the New Zealand *Food Regulations 1984*.
- Food imported into Australia from New Zealand must comply with the Australian *Food Standards Code*. However, under the provisions of the Trans-Tasman Mutual Recognition Arrangement, food may be imported into Australia from New Zealand provided it complies with the New Zealand *Food Regulations 1984*.
- Food imported into Australia other than from New Zealand must comply solely with the Australian *Food Standards Code*.

In addition to the above, all food sold in New Zealand must comply with the New Zealand *Fair Trading Act* and all food sold in Australia must comply with the Australian *Trade Practices Act 1974*, and the respective State and Territory *Fair Trading Acts*.

Any person or organisation may apply to ANZFA to have the *Australian Food Standards Code* amended. In addition, ANZFA may develop proposals to amend the *Australian Food Standards Code*. ANZFA can provide advice on the requirements for applications to amend the *Australian Food Standards Code*.

INVITATION FOR PUBLIC SUBMISSIONS

The Authority has completed a full assessment of the proposal, prepared a new draft standard to the new joint Australia New Zealand food standard and will now conduct an inquiry to consider the new draft standard and its regulatory impact.

Written submissions containing technical or other relevant information which will assist the Authority in undertaking a full assessment on matters relevant to the application, including consideration of its regulatory impact, are invited from interested individuals and organisations. Technical information presented should be in sufficient detail to allow independent scientific assessment.

Submissions providing more general comment and opinion are also invited. The Authority's policy on the management of submissions is available from the Standards Liaison Officer upon request.

The processes of the Authority are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of the Authority and made available for inspection. If you wish any confidential information contained in a submission to remain confidential to the Authority, you should clearly identify the sensitive information and provide justification for treating it in confidence. The *Australia New Zealand Food Authority Act 1991* requires the Authority to treat in confidence trade secrets relating to food and any other information relating to food, the commercial value of which would be or could reasonably be expected to be, destroyed or diminished by disclosure.

All correspondence and submissions on this matter should be addressed to the **Project Manager - Proposal P150** at one of the following addresses:

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Australia New Zealand Food Authority
PO Box 10559

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AUSTRALIA

Tel (02) 6271 2258 Fax (02) 6271 2278

The Terrace WELLINGTON 6036
NEW ZEALAND

Tel (04) 473 9942 Fax (04) 473 9855

Submissions should be received by the Authority by **23 December 1998**.

General queries on this matter and other Authority business can be directed to the Standards Liaison Officer at the above address or by Email on <slo@anzfa.gov.au>.

Submissions should not be sent by Email as the Authority cannot guarantee receipt.

Requests for more general information on the Authority can be directed to the Information Officer at the above address or by Email <info@anzfa.gov.au>.