

ANNEXE

IMPORTED FOOD

An arrangement for coordination of procedures and communication of imported food issues between –

Food Standards Australia New Zealand

and

the **Department of Agriculture**

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BACKGROUND

All foods sold in Australia must comply with a range of laws designed to protect public health and safety and to assist consumers in making informed choices. These laws apply equally to imported and locally produced foods. Responsibility for ensuring domestically produced foods meet these laws rests with State or Territory authorities. These authorities are responsible for ensuring all food for sale (including imported food) in their jurisdictions is safe and meets Australian standards.

The *Imported Food Control Act 1992* (Cth) (**the IFC Act**) empowers the Australian Government Department of Agriculture (**Agriculture**), to inspect imported food at the border, including for compliance with Australian standards, and to reject, destroy, downgrade or allow treatment of consignments that are determined to be a failing food.

Food Standards Australia New Zealand (**FSANZ**) is responsible for developing and reviewing food standards and variations of food standards in accordance with the *Food Standards Australia New Zealand Act 1991* (Cth) (**the FSANZ Act**) and may develop guidelines to assist the interpretation of the Australia New Zealand Food Standards Code (**the Code**).

The particulars of the Imported Food Inspection Scheme (**IFIS**) are set out in the *Imported Food Control Regulations 1993*, which prescribe that imported foods are to be given one of three classifications ('risk food', 'surveillance food' or 'compliance agreement food'). The classification by Agriculture determines the frequency of inspection and other factors such as whether foods are sampled and held pending results or sampled and released. The classification of risk food can be done only after advice has been provided by FSANZ.

This Annexe to the Memorandum of Understanding (**MOU**) between the Department of Agriculture and Department of Health, made under clause 9 of that MoU, underpins the co-operative partnership approach to managing imported food issues.

1 PURPOSE

- 1.1 The purpose of this ANNEXE is to provide a framework that facilitates:
- (a) an effective operational liaison;
 - (b) information exchange arrangements; and
 - (c) media and/or public statements arrangements
- in relation to the IFIS and other imported food issues including food regulations.

2 STATUTORY FRAMEWORK

- 2.1 FSANZ, under section 7 of the FSANZ Act, has statutory responsibility, amongst other things, for the development, variation and review of food standards; the development of assessment policies in relation to imported food; in consultation with the States and Territories, the coordination of the monitoring, surveillance and enforcement of activities related to food available in Australia; and the coordination of food recalls.
- 2.2 Agriculture administers the IFC Act and has responsibility for development and maintenance of operational policies and procedures to implement the regime of imported food control and inspection established under that Act. The IFC Act provides for an imported food inspection scheme to ensure as far as possible that food imported into Australia complies with the Code and does not pose a risk to public health and safety. The IFC Act provides that the Minister must not make or vary an order made under the IFC Act unless the Minister has first consulted with FSANZ concerning the proposed order or variation. The classification of food as risk food by Agriculture is contingent upon advice from FSANZ that the food has the potential to pose a high or medium risk to public health.

3 PRINCIPLES

- 3.1 The agreed principles which underpin the relationship between Agriculture and FSANZ are:

1 – AN INTEGRATED AND COOPERATIVE APPROACH TO IMPORTED FOOD SAFETY

This involves a collaborative, iterative and coordinated approach between the two agencies on imported food and related activities.

2 – APPROPRIATELY DEFINED ROLES AND RESPONSIBILITIES

Roles and responsibilities will be clearly defined while still allowing flexibility to respond to any issues that arise.

3 – CLEARLY DEFINED PROCESSES AND PROCEDURES

Defined processes and procedures will support the effective operation of the two agencies and facilitate the understanding and confidence of stakeholders in the arrangements.

4 – STRATEGIC ENGAGEMENT WITH EXTERNAL STAKEHOLDERS

The effective management of imported food involves FSANZ, Agriculture and appropriate collaboration with other stakeholders. Both parties agree to engage in that collaboration.

5 – ACTIVE MANAGEMENT TO ENSURE ARRANGEMENTS REMAIN APPROPRIATE.

Periodic and ad-hoc review of the processes, procedures and advice will occur to ensure they remain relevant, responsive and appropriate to managing imported food issues.

4 FRAMEWORK FOR CO-OPERATION AND CO-ORDINATED ACTIVITY

4.1 Advice on food that has the potential to pose a risk to public health

- (a) FSANZ will provide advice on the level of risk to public health and safety in the following situations:
 - i. as part of a review of foods listed as risk category foods in the Imported Food Control Order
 - ii. when Agriculture consults FSANZ under section 17 of the IFC Act, prior to the making of an order under section 16 of the Act
 - iii. when Agriculture formally requests a review of previous advice that has been the basis for Agriculture's risk management at the border.
- (b) FSANZ may provide advice on the level of risk to public health and safety in the following situations:
 - i. as part of response actions under the National Food Incident Response Protocol
 - ii. as a consequence of FSANZ's risk assessment work for standards development when, for example, a new food:hazard combination is identified or as a consequence of new research on a current food:hazard combination
 - iii. in the course of assessment of an emerging food safety issue
 - iv. in response to a specific request from Agriculture on an issue identified with food imports.

4.2 Administration of the IFIS

- (a) Advice from FSANZ will inform Agriculture's administration of the IFIS
- (b) Agriculture will apply tests to determine compliance with the Code and the requirements of public health for food imported into Australia
- (c) Tests will include analytical and/or laboratory tests of equivalence. FSANZ shall provide advice on the food safety outcomes desired to assist Agriculture determine equivalence.

4.3 Formalising the cooperative arrangements

- (a) The detailed operational level arrangements between agencies may be outlined in an interagency standard operating procedure to be jointly developed and implemented by both agencies.

5 JOINT GUIDELINES FOR MEDIA AND/OR PUBLIC ANNOUNCEMENTS

- 5.1 FSANZ and Agriculture undertake to work cooperatively on media management to ensure accurate and rapid responses to media enquiries and to identify the best possible promotional opportunities.
- 5.2 All media, relevant briefings and public announcements that refer to the other agency and relate to imported foods must wherever practicable be referred to the other agency for comment before release by the announcing agency.

6 INTERAGENCY CONSULTATION ARRANGEMENTS

- 6.1 For the purposes of ensuring each agency can effectively carry out their respective roles, FSANZ and Agriculture will engage in regular meetings, at least monthly, or as initiated by either agency. A terms of reference for these meetings will be jointly developed by FSANZ and Agriculture.
- 6.2 FSANZ and Agriculture agree to notify each other of changes in their respective legislation, operational policies, practices and procedures relating to matters covered by this MOU, and which might impact on their ability to co-operate as intended by this MOU.

7 ACCESS TO DOCUMENTATION AND INFORMATION

- 7.1 Subject to any confidentiality requirements, each agency will make available to the other, documentation and information held by that agency, which is essential for the conduct of their respective roles in imported food matters.
- 7.2 FSANZ and Agriculture will provide copies of reports to each other based on information provided under subclause 6.1, subject to agreement on further distribution.
- 7.3 Notwithstanding anything else contained in this MOU, any disclosure of particulars or other information about food importers provided for under this MOU shall be subject to any limitations imposed on such disclosure under section 16 of the *Customs Administration Act 1985* (Cth), the confidentiality provisions in section 39 of the FSANZ Act, the *Privacy Act 1988* (Cth) as amended from time to time and each agency's duty of confidence.

8 ADMINISTRATIVE ARRANGEMENTS

- 8.1 The officers responsible for the administration of this Annexe are:
 - (a) For FSANZ, the person holding the position of General Manager, Legal and Regulatory Affairs; and
 - (b) For Agriculture, the person holding the position of Assistant Secretary, Compliance Arrangements.

These officers will meet formally two times a year unless otherwise agreed to discuss issues relating to the implementation of this Annexe.

- 8.2 This Annexe may be amended by mutual agreement in writing.

- 8.3 The Deputy Secretary, Biosecurity and the Chief Executive Officer of FSANZ will meet annually to discuss issues outlined in this Annexe.
- 8.4 Any previous MOU or agreement relating to the administration of the IFIS made between FSANZ (or its predecessors) and Agriculture shall cease to have effect from the date on which this Annexe is signed.

9 COMMENCEMENT, REVIEW AND TERMINATION

- 9.1 This Annexe takes effect from the date on which the last party signs.
- 9.2 On, or shortly after, the third anniversary of the date of commencement of this Annexe, representatives of the agencies will review the flow of information and co-operation between the agencies, and the scope of the Annexe and consider, if appropriate, amendment of this Annexe. Thereafter, periodic review of this Annexe may take place on request from either agency.
- 9.3 Either agency may terminate this Annexe by written notice to the other agency. The Annexe will terminate 30 days after the date upon which the other agency receives written notice of the intention to terminate.

10 SIGNATURES

SIGNED at Canberra)
for and on behalf of the)
Food Standards Australia New Zealand)
by)

signature

Steve McCutcheon
Chief Executive Officer on

date

SIGNED at Canberra)
for and on behalf of the)
Department of Agriculture)
by)

signature

Rona Mellor PSM
Deputy Secretary on

date