

AGREED MINUTE OF THE OFFICIALS' TALKS ON AUSTRALIA NEW ZEALAND JOINT FOOD
STANDARDS

12-13 NOVEMBER 1995, WELLINGTON

Officials from the National Food Authority, Department of Foreign Affairs and Trade, and Australian High Commission in New Zealand, and the New Zealand Ministries of Foreign Affairs and Trade, Health, Commerce, Agriculture, and Department of Prime Minister and Cabinet met at the offices of the Ministry of Foreign Affairs and Trade in Wellington to discuss the text of the draft Agreement on joint food standards.

2. A text was finalised and initialled on an ad referendum basis by officials and is attached. Both Australia and New Zealand undertook to brief Ministers on the provisionally agreed text and to advise each other on the outcome. New Zealand noted, in particular that it would seek overnight confirmation on the text of Article 3(3)(c) from its Chief Dairy Officer and Chief Meat Veterinary Officer. Australian officials noted that a final text had to be agreed as a matter of urgency to ensure that the amendments to the National Food Authority Act 1991 ("the NFA Act") required to implement the Agreement could be introduced before the Australian Parliament in order to enable the Australia New Zealand Joint Food Standards System to take effect on 1 July 1996.

3. The issue of the extension of mutual recognition to Maximum Residue Levels (MRLs) was discussed. Officials recognised that as MRLs fell outside the scope of the Agreement on joint food standards the negotiations in relation to the proposed Trans-Tasman Mutual Recognition Arrangement would be the appropriate forum for the discussion of this issue and officials agreed that there should be early consultations on this issue.

4. Australia proposed that the Agreement should be signed by the Hon Dr Andrew Theophanous and Hon Katherine O'Regan on 5 December in Wellington. New Zealand agreed to give this date favourable consideration and advise Australia whether this was acceptable by 15 November.

5. An exchange of Ministerial letters was envisaged in relation to certain operational aspects of the proposed joint food standards system including Australia's undertaking to ensure full consultation with the New Zealand Minister before the Australian Minister directed the Authority under the provisions of the amended NFA Act. It was also agreed that this exchange of letters would include assurances that New Zealanders working for the Australia New Zealand Food Authority would enjoy the same treatment as Australians. Subject to Article 3(3)(c) being resolved overnight, it was agreed that the exchange of letters should indicate that New Zealand would seek Cabinet approval to (i) amend the 1976 Order in Council promulgated under the *Dairy Industry Act 1952* in order to comply with the provisions of the Agreement; and (ii) undertake that in future no domestic laws or requirements relating to the *Dairy Industry Act 1952* and the *Meat Act 1981* would be promulgated in a manner inconsistent with the provisions of the Agreement. New Zealand agreed to inform Australia of the decision of Cabinet on this matter on 20 November.

[signed]
Hugh Baber
for New Zealand

[signed]
Graham Peachey
for Australia.

EXCHANGE OF LETTERS ON JOINT FOOD STANDARDS

I

5 December 1995

Hon Katherine O'Regan
Associate Minister of Health
Parliament Buildings
WELLINGTON

Dear Minister

I have the Honour to refer to the signing today of the Agreement between the Government of Australia and the Government of New Zealand Establishing a System for the Development of Joint Food Standards.

The conclusion of this Agreement marks an exciting new step in relations between Australia and New Zealand within the framework of Closer Economic Relations and demonstrates the commitment of both our Governments to bring into effect at the earliest possible date a joint system for the setting of food standards. This will be of considerable benefit to manufacturers and consumers on both sides of the Tasman.

In the course of the final negotiations on the text of the Agreement a number of aspects relating to the operation of the Agreement and steps that will be taken to ensure effective implementation have been clarified between our officials, as identified in the Agreed Minute signed on 13 November 1995.

In this regard, I note the following:

1 Consultation with the New Zealand Minister

It is envisaged that the practical day to day operation of the Australia New Zealand Food Authority (ANZFA) will be provided for under the *National Food Authority Act 1991* (as amended to enable implementation of the Agreement). That Act, amongst other things, provides that directions may be given to ANZFA by the Australian Minister and that regulations may be promulgated relating to the operation of ANZFA. As noted in the Agreed Minute, in view of New Zealand's status as a joint partner in the Australia New Zealand Food Standards System, it is intended that in the event that the Australian Minister were to consider issuing directions to ANZFA or that it was proposed that regulations be promulgated that impacted on the operation of ANZFA or the joint food standards system, there would be prior consultations with the New Zealand Minister.

2. Employees of ANZFA

It is envisaged that employees of ANZFA will be employed under the *Australian Public Service Act 1922*. The provisions of this Act are under review. In the meantime, the Public Service Act 1922 will be

applied in a manner that ensures that New Zealanders working for or seeking employment in ANZFA will enjoy the same treatment as Australians.

3. Article 3 of the Agreement

During the recent final stage of the negotiation process officials worked hard to achieve an adequate delineation of the scope of the joint system. This is set out in Article 3 of the Agreement. In addition to setting out in Article 3(2) the type of standards that are included, it has also been necessary to identify in Article 3(3) matters which are not included. In the New Zealand context the operation of Article 3(3) would mean that the following matters are among the matters excluded from the scope of the joint system:

- i. food safety or hygiene requirements or food safety or hygiene standards prescribed by the New Zealand Ministry of Agriculture in accordance with the *Meat Act 1981* and the *Dairy Industry Act 1952* and Regulations made pursuant to those Acts where such requirements or standards relate to the production, processing/manufacture, storage or distribution of the products covered by these Acts;
- ii. any requirement or standard for food safety programs or other means of demonstrating safety and compliance to standards of food, prescribed and/or administered by the New Zealand Ministry of Agriculture in accordance with the *Meat Act 1981* and the *Dairy Industry Act 1952* and Regulations made pursuant to those Acts;
- iii. any food requirement or standard prescribed and/or administered by the New Zealand Ministry of Agriculture in accordance with the *Meat Act 1981* and the *Dairy Industries Act 1952* and Regulations made pursuant to those Acts relating to exports to countries other than Australia.

4. Legislative Consistency with the provisions of the Agreement

I also note that New Zealand will amend the 1976 Order in Council promulgated under the *Dairy Industry Act 1952* in order to comply with the Agreement and that any domestic laws, regulations or requirements relating to the *Meat Act 1981* and the *Dairy Industry Act 1952* will be promulgated in a manner consistent with the provisions of the Agreement.

I would be grateful for your confirmation that the foregoing represents the joint understanding of our two Governments relating to the operation and implementation of the Agreement.

Yours sincerely

[signed]

Dr Andrew Theophanous
Parliamentary Secretary to the Minister for Human Services and Health

5 December 1995

Hon Dr Andrew Theophanous
Parliamentary Secretary
Parliament House
Canberra

Dear Dr Theophanous

I have the honour to refer to the Agreement between the Government of New Zealand and the Government of Australia Establishing a System for the Development of Joint Food Standards and your letter of today's date which reads as follows:

[Here follows the text as set out at I]

I am pleased to confirm that the following represents the joint understanding between our two Governments regarding the operation and implementation of the Agreement between the Government of New Zealand and the Government of Australia Establishing a System for the Development of Joint Food Standards.

Yours sincerely

[signed]

Hon Katherine O'Regan
Associate Minister of Health