Ensure equivalence of imported product with Australian quality specifications and food safety and chemical reside requirements

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Statement of purpose - Horticulture Australia Limited

Australian consumers should not have their confidence in fresh produce jeopardised by accepting lesser surety of integrity than domestically supplied produce. Similarly, domestic producers should not have the public perception of Australia's reputation of producing safe and wholesome food jeopardised by quality or food safety incidents beyond their control.

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The authors provide a legal interpretation but do not purport the only single legal interpretation of the various legislative and regulatory provisions discussed in this report.

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Foreword

Food Compliance Australia has been commissioned by the Horticulture Australia Limited (HAL) Across Industry Management Committee to review the food standards, import control and quarantine legislation, regulation and administrative processes associated with imported horticultural produce.

There is a variety of regulatory quality assurance programs in place in Australia that are relevant to horticultural produce. The report provides comment on the AQIS Import Clearance Compliance Agreement Model and, in particular the AQIS Imported Food Quality Assurance Arrangements.

The report notes that most food retailers, as a condition of supply, require that suppliers comply with all statutory and regulatory product safety, compositional and labelling requirements. The report presents a retail based food label survey to identify the level of rigor by which a retail supermarket implement these conditions of trade.

The report also presents four case studies on the requirements of fresh horticultural produce. Three of the case studies identify the food standards and quarantine compliance requirements for the importation into Australia of the following fresh produce; garlic (China), pineapples (Thailand) and citrus (USA). The fourth case study presents the agricultural and chemical residues permitted on US sweet oranges for human consumption.

The Executive Summary presents a synopsis of the key findings of this report relevant to the importation of horticultural produce into Australia. Salient points are presented in boxed text throughout the report.

Media Summary

All food imported into Australia must in the first instance comply with Australia's quarantine laws as set out in the *Quarantine Act 1908* (Cth) and then Australia's food safety standards as required by the *Imported Food Control Act 1992* (Cth).

Quarantine

Under the *Quarantine Act 1908* (Cth) the Commonwealth Government has responsibility in relation to pre-border and border monitoring, detection and control arrangements in respect to humans, animals and plants.

The Australian Quarantine Inspection Service (AQIS) has operational responsibility for implementing the *Quarantine Act 1908* (Cth) at the border.

Imported Food

Under the *Imported Food Control Act 1992* (Cth) the Commonwealth Government sets out the particulars of a food inspection scheme, known as the Imported Food Inspection Scheme.

AQIS and Food Standards Australia New Zealand (FSANZ) have joint responsibility for regulating the safety of food imports through the Imported Food Inspection Scheme.

FSANZ is responsible for conducting the risk assessment of imported foods and advising AQIS of the inspection requirements applied to imported foods.

AQIS, through the Imported Food Program, is responsible for providing operational services at the border. The Imported Food Program fulfils this role by carrying out necessary inspections, verifications and tests in line with FSANZ's advice.

In principle, the standards that imported food must meet under the *Imported Food Control Act 1992* (Cth) are set out in the *Australia New Zealand Food Standards Code* (Cth) (the Code).

This report has identified, that as at the date of preparation, the inspection process, sampling program and the inspection analyses used to facilitate clearance of imported food into Australia, is largely risk based.

In most cases, the 'risk based' tests conducted by the Imported Food Program, in line with FSANZ's advice, are subsets of the requirements of food, as set out in the Code.

As such, it is likely that current administrative processes set up in the Imported Food Inspection Scheme do not assure the Australian community that all food imported into Australia complies with all the requirements of the Code.

In principle, domestic producers must comply with all the requirements of food as set out in the Code.

Executive Summary

There are numerous layers of legislation and regulation associated with the importation of fresh horticultural produce for human consumption in Australia. They deal predominantly with quarantine, food standards and the mechanisms by which imported food is inspected and assessed for compliance, particularly by the Imported Food Inspection Scheme and the Imported Food Program.

All food imported into Australia must in the first instance comply with Australia's quarantine laws as set out in the *Quarantine Act 1908* (Cth) and then Australia's food safety standards as required by the *Imported Food Control Act 1992* (Cth). The standards that must be met under the *Imported Food Control Act 1992* (Cth) are set out in the *Australia New Zealand Food Standards Code* (Cth) (the Code).

The report identifies three key findings regarding the legislative, regulatory and administrative mechanisms associated with the importation of horticultural produce into Australia. Specifically:

- Food imported from or via New Zealand,
- Risk based compliance clearance for imported food, and the
- Quarantine treatment of 'plant products'.

Food imported from or via New Zealand

The report has identified that food imported from or via New Zealand is largely exempt from the regulatory scrutiny of the Imported Food Inspection Scheme.

Reading the *Imported Food Control Regulation 1993* (Cth) as written, indicates that food exempt from inspection through the Imported Food inspection Scheme, is food that is imported **from** New Zealand, **and** was made or produced in New Zealand, **and** is not a 'risk food'. Specifically:

Regulation 3A states;

> "(a) is imported from New Zealand; and
> (b) was made or produced in New Zealand; and
> (c) is not a risk food."

However under the *Trans Tasman Mutual Recognition Act 1997* (Cth) (TTMRA) Active Surveillance and Random Surveillance Category Foods imported **from** or **via** New Zealand, are specifically exempted from the requirements of the *Imported Food Control Act 1992* (Cth) (see Appendices 2 and 3 of this report). Specifically the food:

- must be imported into New Zealand,
- must comply with New Zealand Food laws, and
- be labelled at the point of sale in Australia as having been imported into New Zealand.

Through this arrangement, there is no requirement for a food, to **actually be produced** in New Zealand, for it to be exempt from the *Imported Food Control Act 1992* (Cth). Implicit in this exemption, is a mechanism that facilitates trans-shipment of food through New Zealand, to Australia, with a minimum of regulatory oversight.

It is also worth noting, that the TTMRA exemption is based on the joint nature of the Code and the equivalence in production systems in Australia and New Zealand. However, New Zealand Food laws are exempt from large parts of the Code including:

- Standard 1.2.11 – Country of Origin Requirements,
- Standard 1.4.2 – Maximum Residue Limits,
- Standard 1.6.2 – Processing Requirements,
- Chapter 3 – Food Safety Standards, and
- Chapter 4 – Primary Production and Processing Standards.

The significance of these exemptions for the 'equivalence' of food imported into Australia from New Zealand is difficult to ascertain.

Please note the TTMRA and New Zealand Food law were outside the scope of this report and as such has not been reviewed in any detail by this report.

Risk based compliance clearance for imported food

This report extensively investigated the Imported Food Inspection Scheme, the legislation and other instruments associated with the Schemes administration and the joint role of FSANZ and AQIS's Imported Food Program have in the development and implementation of the Scheme's operational inspection activities.

The report identified that the inspection process, sampling program and the analyses (visual and laboratory) used to facilitate clearance of imported food by the Imported Food Program for sale in Australia are largely risk based.

The regulatory justification for a 'risk based' compliance assessment model appears to be given in Regulation 29 (a) of the *Imported Food Control Regulations 1993* (Cth).

"29 How is food to be analysed under the Scheme?

Food required to be analysed under the Scheme may be subjected to microbiological, chemical or physical analysis, or any other kind of analysis, necessary to determine whether:
(a) it poses a risk to human health; or
(a) it complies with the Food Standards Code."

Application of the 'risk based' compliance assessment approach allows the Imported Food Program to communicate to stakeholders, through the Imported Food Notices, a level of prescription associated with the inspection and analyses of imported food products.

An argument for the use of the 'risk based' compliance assessment is that it provides the Imported Food Program with a consistent administrative approach to facilitate the clearance of large volumes of imported food and to increase trade.

It is worth noting that the 'risk based' analyses as applied at the border on imported food, are usually subsets of the requirements of food as set out in the Code.

In principle, domestic producers must comply with all the requirements of food as set out in the Code.

Application of the Imported Food Program 'risk based' compliance clearance criteria raises a number of fundamental policy level problems. Specifically:

- Compliance costs associated with meeting the requirement of food as set out in the Code are likely to be greater than those associated with meeting the 'risk based' compliance clearance criteria as set out by the Imported Food Program. This approach may skew the cost base of local producers. Further, this approach prevents the fair and equitable assessment and inspection of imported food against the requirements of the Code, and
- Application of a 'risk based' enforcement process to all foods in Australia may result in 'jurisdiction shopping' and a loss of public confidence in the equity and integrity of the food regulatory system.

The administrative processes associated with imported foods could be rectified by revising Regulation 29 – *Imported Food Control Regulations 1993* (Cth), to reflect that the analyses used to inspect a food must address public health and safety AND the requirements of the Food Standards Code. This would undoubtedly increase the compliance costs associated with imported food.

In the absence of addressing the administrative procedure associated with imported foods, an alternative would be for the jurisdictions and other relevant stakeholders to accept that the 'risk based' compliance clearance criteria as applicable to all food in Australia. This would undoubtedly decrease the compliance costs associated with domestically produced food at the risk of decreasing the overall integrity and public confidence in the food regulatory system.

Quarantine treatment of 'plant products'.

Part 7 – Plant Quarantine of the *Quarantine Proclamation 1998* (Cth) details quarantine treatment of plants as enabled by the *Quarantine Act 1908* (Cth).

The report has identified that the quarantine treatment of 'plant products' is defined in Section 57 and 57A of the *Quarantine Proclamation 1998* (Cth). Specifically:

Section 57 of the *Quarantine Proclamation 1998* contains definitions for Part 7.

> "In this Part:
>
> **….. plant product** means a product, wholly or partially of plant origin, that has been processed to prevent:
> (a) the plant material from being infected or contaminated with a quarantinable disease; and
> (b) the plant material being capable of propagation."

Section 57A of the *Quarantine Proclamation 1998* defines plant products excluded from application of Part 7, specifically

> "Part 7 does not apply to plant products"

The definition in Section 57 and exclusion noted in Section 57A effectively removes products that are defined as 'plant products' from the requirements of quarantine.

This has significant relevance for 'processed' horticultural produce.

Overall Conclusion

The legislative, regulatory and administrative mechanisms associated with the importation of horticultural produce into Australia are complex.

There are numerous exemptions to imported food regulatory oversight, the largest resulting from food imported from or via New Zealand.

For imported foods that are assessed for compliance, the mechanism for verification is via risk-based analyses developed largely to ensure public health and safety. The risk-based analyses are usually subsets of the requirements of food as set out in the Code. As such, the administrative processes currently set up in the Imported Food Inspection Scheme do not assure the Australian community that food imported into Australia complies with all the requirements of the Code.

There are also exemptions to quarantine regulatory oversight, the most relevant to imported horticultural produce being the exemption of 'plant products' from the requirement of rigorous quarantine control.

Chapter 1 - Importing Food into Australia

Introduction

All food imported into Australia must in the first instance comply with Australia's quarantine laws as set out in the *Quarantine Act 1908* (Cth) and then Australia's food safety standards as required by the *Imported Food Control Act 1992* (Cth). The standards that must be met under the *Imported Food Control Act 1992* (Cth) are set out in the *Australia New Zealand Food Standards Code* (Cth) (the Code).

These standards also apply to food manufactured in Australia and with some exceptions for food manufactured in New Zealand.

The Australian Quarantine and Inspection Service (AQIS) and Food Standards Australia New Zealand (FSANZ) have joint responsibility for regulating the safety of food imports[1]. FSANZ is responsible for conducting the risk assessment of imported foods and advising AQIS of the inspection requirements to be applied to imported foods.

AQIS is responsible for providing operational services at the border to carry out the necessary inspections, verifications and tests in line with FSANZ's advice.

AQIS carries out its responsibilities for imported food through the Imported Food Inspection Scheme. The operational component of the Scheme is the Imported Food Program.

Quarantine

The connection between AQIS's responsibilities in respect to quarantine operations and the Imported Food Program operations is often confusing for importers of food.

All food imported into Australia must, in the first instance, comply with the requirements of the *Quarantine Act 1908* (Cth) and then comply with the requirements of the *Imported Food Control Act 1992* (Cth) for matters relating to food safety[2].

Some imported foods may need to undergo a quarantine inspection to ensure they satisfy all quarantine requirements before they have an imported food inspection. A release issued after the quarantine inspection is NOT a clearance from the Imported Food Program.

Australian Customs Service

Generally, all commercial imports, including food, require a formal entry to be lodged with the Australian Customs Service (Customs). This process can be undertaken either manually at a Customs office, or electronically through authorised access to the Customs Commercial Systems (COMPILE).

Entries may be lodged by importers or their Customs brokers. When details are lodged with Customs, the brokers use the internationally recognised tariff classification system (a standardised numbering system used to individually identify goods). AQIS asks Customs to identify and select

[1] http://affa.gov.au/content/output.cfm?ObjectID=D2C48F86-BA1A-11A1-A2200060A1B01838

[2] Imported Food Notice 45/04, p1 Imported Food Inspection Scheme Random Surveillance Category Food List, 17 August 2004

food in these entries according to the food's classification. Under this arrangement all entry details relating to the food selected for inspection will be relayed to the AQIS's Imported Food Program[3].

Food Categories under the Imported Food Inspection Scheme

Under the Imported Food Inspection Scheme, foods are classified according to the potential risk to human health based on the nature of the food and historical inspection data. The three inspection categories as defined in the *Imported Food Regulations 1993* (Cth) are:

- Risk Categorised Food
- Active Surveillance Category Food
- Random Surveillance Category Food.

The classification of a food largely determines the rate that a food will be inspected, the specificity of the tests associated with the food, and the protocols associated with its release from the imported food program.

Comment

It is important to note that AQIS does not check all imported foods selected for inspection for 'absolute compliance' with all of the provisions of the Code. AQIS's principle focus is on food safety and labelling, although some additional checks may be carried out if something is noticed on a label that is of concern[4].

Risk Category Food

Risk category foods are foods that have been deemed to represent the highest potential risk to human health as categorised by FSANZ.

All consignments of risk food lodged with Customs are referred to the Imported Food Inspection Scheme.

Inspection rate

The intensity of inspection applied to these foods depends on the compliance history of overseas producers (manufacturers or packers).

Producers whose food products consistently comply with Australian requirements will be inspected at a less intensive rate than those with a low compliance rate.

All producers will have their food inspected at the initial rate of 100 % of consignments.

Usually after five consecutive consignments have passed inspection the food will be inspected at a less intense rate of one in four consignments on a random basis (this should not be confused with random surveillance category food discussed below).

[3] Important Facts About Importing Food Into Australia, p2. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004.
[4] Australia Food and Agricultural Import Regulations and Standards – Country Report 2001. p11. GAIN Report #AS1024 USDA (Last updated July 2001).

Twenty passes must be achieved before the rate reduces to one in twenty on a random basis, providing imports continue to pass inspection and the food continues to be imported at a steady rate[5].

Examples of risk categorised foods relevant to horticultural produce are:

- **Coconut dried** (all forms).
- **Peanuts that are raw, blanched or roasted** (whether in shells or shelled, whether or not crushed or ground). Including all peanut products and food containing greater than 5% peanut or peanut products as an ingredient.
- **Herbs, spices and dried vegetable seasonings**
- **Pistachios and any food that contains pistachios**
- **Pistachio products and any food that contains pistachio products**
- **Sesame seeds and sesame seed products**

More specific information relating to the analysis of risk category foods relevant to horticulture can be found in an abstracted version of Imported Food Notice: 43/04 attached as Appendix 1 - Risk Category Food List[6].

Active Surveillance Category Food

Certain classes of food are classified for active surveillance by FSANZ in order to gather more information about them. Through their previous inspection history, foods in this category have been identified as requiring a more intensive inspection regime to determine if the food should be categorised as Risk or return to the Random surveillance level.

Food in this group is selected for inspection at a rate of approximately 10 per cent by country-of-origin[7].

Examples of active surveillance category foods relevant to horticultural produce are:

- **All vegetable sprouts** (however packed) – excluding product which is canned or has undergone an equivalent heat treatment that renders the product commercially sterile.
- **Dried or moisture-reduced dates**
- **Dried or moisture-reduced sultanas**
- **Dried Figs**

More specific information relating to the analysis of active surveillance category foods relevant to horticulture can be found in an abstracted version of Imported Food Notice: 44/04 attached as Appendix 2 - Active Surveillance Category Food List[8].

Random Surveillance Category Food

All other food not in the Risk or Active Surveillance Category is classified as Random Surveillance Category Food. Food in this category is referred to AQIS by Customs at the rate of 5 per cent of all shipments by tariff classification for inspection on a random basis[9].

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[5]Important Facts About Importing Food Into Australia, p3. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004.

[6] Imported Food Notice 44/04,p2 Imported Food Inspection Scheme Risk Category Food List, 17 August 2004

[7] Important Facts About Importing Food Into Australia, p3. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004.

[8] Imported Food Notice 44/04, Imported Food Inspection Scheme Active Surveillance Category Food List, 17 August 2004

Horticultural products are generally listed as Random Surveillance Category Food.

More specific information relating to the analysis of Random Surveillance Category Food relevant to horticulture can be found in an abstracted version of Imported Food Notice: 45/04 attached as Appendix 3 - Random Surveillance Category Food List[10].

Food Holding Orders

A holding order is an administrative mechanism ensuring future shipments of a food that has previously failed to comply with Australian standards, irrespective of its allocated food category, is referred to the Imported Food Program for inspection. Holding Orders are applied to the kind of food sourced from a manufacturer and a specific country of origin. Once detained, the goods must be held pending the results of the inspection or the return of satisfactory laboratory results. On passing inspection and/or analysis the food is released to the importer[11].

Imported Food Inspection Clearance

There are several different streams by which inspected foods may be released by the Imported Food Program. Determinants include the food category, whether a food is associated with a foreign government certification or quality assurance arrangement or whether the food is imported into Australia via New Zealand.

Risk Category Food

All electronic entries containing risk food are selected by the Customs system for referral to AQIS.

In circumstances where a Risk Category Food has demonstrated continuing compliance with Australian standards, the food may be given a clearance without an inspection.

In circumstances where a Risk Category Food is sampled for analysis purposes, the food is generally not released until results of satisfactory laboratory analyses are returned[12].

Comment

There is an exemption to the rule of holding risk category food until the return of satisfactory laboratory analysis as defined by Regulation 27 of the *Imported Food Control Regulations 1993* (Cth). The exemption deals with highly perishable risk category foods.

Active Surveillance or Random Surveillance Category Food

All Active Surveillance and Random Surveillance Category Food that are referred to AQIS by Customs will be inspected and may have samples taken for analysis. Normally Active and Random

[9] Important Facts About Importing Food Into Australia, p4. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004

[10] Imported Food Notice 45/04, Imported Food Inspection Scheme Random Surveillance Category Food List, 17 August 2004

[11] Important Facts About Importing Food Into Australia, p5. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004

[12] Important Facts About Importing Food Into Australia, p5. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004

Surveillance Category Food are released after the initial inspection (providing the goods do not have any defects such as visual and labelling faults)[13].

Comment

The release is a permission to deal with the food before the results of an analysis is known.

Foreign Government Certification and Quality Assurance Arrangements

As an alternative to routine inspection, AQIS has the capacity to enter into agreements with foreign governments or individual entities with appropriate quality assurance arrangements.

Foods accompanied by acceptable foreign government certification or quality assurance documentation are generally allowed entry without further testing. Exemptions are inspection and sampling for audit purposes, or where an authorised officer has some concern about a particular consignment[14].

Food imported from or via New Zealand

Under the *Trans Tasman Mutual Recognition Act 1997* (TTMRA) (Cth), Active Surveillance Category[15] and Random Surveillance Category foods[16], imported from or via New Zealand are specifically exempted from the requirements of the *Imported Food Control Act 1992* (Cth). This exemption is based on the joint nature of the *Australia New Zealand Food Standards Code* (Cth) and the equivalence of production systems in Australia and New Zealand.

In order to be exempt from inspection under the provisions of the *Imported Food Control Act 1992* (Cth), Active Surveillance Category and Random Surveillance Category food imported via New Zealand must comply with the TTMRA principles whereby the food:

- must be imported into New Zealand,
- must comply with New Zealand Food laws, and
- be labelled at the point of sale in Australia as having been imported into New Zealand.

Responsibility for monitoring food imported from New Zealand under TTMRA lies with the respective State or Territory Health authorities.

Comment

New Zealand Food laws are exempt from large parts of the *Australia New Zealand Food Standards Code* (Cth) including:

- Standard 1.2.11 – Country of Origin Requirements,
- Standard 1.4.2 – Maximum Residue Limits,
- Standard 1.6.2 – Processing Requirements,

[13] Important Facts About Importing Food Into Australia, p5. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004

[14] Important Facts About Importing Food Into Australia, p10-11. Imported Food Inspection Scheme, AQIS Canberra,. 25 March 2004

[15] Imported Food Notice 44/04,p2 Imported Food Inspection Scheme Active Surveillance Category Food List, 17 August 2004

[16] Imported Food Notice 45/04, p2 Imported Food Inspection Scheme Random Surveillance Category Food List, 17 August 2004

- Chapter 3 – Food Safety Standards, and
- Chapter 4 – Primary Production and Processing Standards.

The significance of these exemptions for the 'equivalence' of food imported into Australia from New Zealand is difficult to ascertain.

Conclusion

The administrative process associated with the importation of food into Australia is well defined.

All food imported into Australia must, in the first instance, comply with the requirements of the *Quarantine Act 1908* (Cth) and then comply with the requirements of the *Imported Food Control Act 1992* (Cth) for matters relating to food safety. The standards that must be met under the *Imported Food Control Act 1992* (Cth) are set out in the *Australia New Zealand Food Standards Code* (Cth) (the Code).

These standards also apply to food manufactured in Australia and with some exceptions for food manufactured in and imported from New Zealand.

Under the *Trans Tasman Mutual Recognition Act 1997* (TTMRA) (Cth), Active Surveillance Category and Random Surveillance Category foods imported from or via New Zealand are specifically exempted from the requirements of the *Imported Food Control Act 1992* (Cth).

Chapter 2 - Food Regulatory Framework

Introduction

The Australian Government Department of Health and Ageing is responsible for implementing the Council of Australian Governments' (COAG) food regulatory reforms. The reforms were agreed to via the Inter-governmental Food Regulation Agreement (amended on 6 December 2002), and it is argued by the Australian Government that it has resulted in a more whole-of-food chain and nationally focused food regulatory system for Australia and New Zealand that enhances public health and safety.

The reforms follow the 1998 Food Regulation Review (Blair) Report, and focus on three key areas:

- structural - establishing a national system incorporating key stakeholders to achieve agreed food safety outcomes through consistent approaches;
- legislative/regulatory - establishing the overarching legislative framework for setting domestic food standards based on rigorous science and assessed risk; and
- policy - developing the overarching food policy framework to guide all parts of the system.

New Zealand's role and participation in the new system is set out in amendments to the *Australia New Zealand Joint Food Standards Agreement* between Australia and New Zealand, creating a joint food standards system[17].

The Food Regulation Model

The model comprises:

- The Australia and New Zealand Food Regulation Ministerial Council (the Ministerial Council), whose role is to develop domestic food regulation policy in the form of policy guidelines. The Ministerial Council comprises Ministers from all States and Territories as well as Australian and New Zealand Governments. The intent is that each jurisdiction brings a "whole of government" view forward to the Ministerial Council. This requires Ministers to balance and reconcile the objectives of ensuring public health and safety, and the need to produce and deliver food to the public efficiently, with minimal regulation[18].
- The Food Regulation Standing Committee (FRSC) which is responsible for co-ordinating policy advice to the Ministerial Council and ensuring a nationally consistent approach to the implementation and enforcement of food standards. It also advises the Ministerial Council on the initiation, review and development of Standing Committee activities. Membership of the FRSC reflects the membership of the Ministerial Council and comprises the heads of Departments for which the Ministers represented on the Council have portfolio responsibility, as well as the President of the Australian Local Government Association and Food Standards Australia New Zealand as observers[19].
- An Implementation Sub-Committee (ISC) which oversees a consistent approach to implementation and enforcement of food regulations and standards[20]. Membership of ISC reflects agencies responsible for the enforcement of the Code.

[17] http://www.health.gov.au/internet/wcms/publishing.nsf/content/foodsecretariat-system.htm
[18] http://www.health.gov.au/internet/wcms/publishing.nsf/content/foodsecretariat-system.htm
[19] http://www.health.gov.au/internet/wcms/publishing.nsf/content/foodsecretariat-system.htm
[20] http://www.health.gov.au/internet/wcms/publishing.nsf/content/foodsecretariat-system.htm

- Food Standard Australia New Zealand (FSANZ) which is a statutory authority responsible for developing all domestic food standards based on scientific/technical criteria, consistent with Ministerial Council policy[21]. FSANZ does not have a direct operational enforcement role.
- The Imported Food Inspection Scheme which is the mechanism by which AQIS and FSANZ have joint responsibility for regulating the safety of food imports. The operational component of the Scheme is AQIS's Imported Food Program. AQIS Imported Food Program is the Imported Food inspection Schemes representative member at ISC.
- States and Territories which as members of the Ministerial Council have a responsibility for food policy development, as well as are responsible for implementation and enforcement in their jurisdictions.
- Local governments which have a historical role in the enforcement of food law in Australia primarily through the agency of the Environmental Health Officers (Ethos). On a day-to-day level Ethos are responsible for the enforcement of the Code at a local level.

Roles and Responsibilities

Within the model the roles and responsibilities of individual organisations are as follows;

Australia and New Zealand Food Regulation Ministerial Council

The Ministerial Council has responsibility for[22]:
- the development of domestic food regulatory policy;
- the development of policy guidelines for setting domestic food standards;
- the promotion of harmonised food standards within Australia between the Parties (harmonisation of domestic standards between States and Territories and of domestic standards with export standards) and with Codex Alimentarius (harmonisation of domestic and export standards with international food standards set by Codex Alimentarius);
- the general oversight of the implementation of domestic food regulation and standards; and
- the promotion of a consistent approach to the compliance with, and enforcement of, food standards.

Under the Treaty, the Ministerial Council's responsibility is described in similar terms but limited to the areas of joint food standards between Australia and New Zealand.

Food Regulation Standing Committee

The Food Regulation Standing Committee (FRSC) was established to provide advice to the Ministerial Council and has responsibility for advising the Ministerial Council on the development of food regulation policy guidelines. This includes providing advice to Ministers on[23]:
- issues that may require food regulation policy guidelines;
- developing policy principles and associated policy options for Ministerial Council consideration; and
- the process for development of food regulation policy guidelines.

[21] http://www.health.gov.au/internet/wcms/publishing.nsf/content/foodsecretariat-system.htm
[22] Australia and New Zealand Food Regulation Ministerial Council, p5. Australia and New Zealand Food Regulation Ministerial Council – Principles and Protocols for the Development of Food Regulation Policy Guidelines, Food Regulation Standing Committee, Principles and Protocols Working Group endorsed 31 March 2005.
[23] Food Regulation Standing Committee, p5. Australia and New Zealand Food Regulation Ministerial Council – Principles and Protocols for the Development of Food Regulation Policy Guidelines, Food Regulation Standing Committee, Principles and Protocols Working Group endorsed 31 March 2005

Implementation Sub-Committee

The Implementation Sub-Committee (ISC) was established to oversee a consistent approach across jurisdictions to implementation and enforcement of food regulations and standards, regardless of whether food is sourced from domestic, export-registered establishments or from imports. It is recognised that implementation and enforcement is the responsibility of the State and Territory and New Zealand governments and the Australian Quarantine and Inspection Service (for imported foods). New Zealand's participation in ISC provides the opportunity for broader cooperation with New Zealand in areas outside the scope of the Treaty[24].

Food Standards Australia New Zealand

FSANZ has a specific operational framework that is detailed in the *FSANZ Act 1991* (Cth), the Treaty, and in the Food Regulation Agreement. The objectives, powers and functions of FSANZ, and matters that may be included in food standards are specified in the *FSANZ Act 1991* (Cth).

In the development of food standards, activities that are clearly the expertise and responsibility of FSANZ include[25]:

- stakeholder consultations relating to the development of food standards (as distinct from stakeholder consultation relating to the development of food regulation policy guidelines);
- scientific analysis of public health and safety;
- assessment of risk and identification of management options for dealing with risk;
- analysis of regulatory measures; and
- choice of mechanism to deliver the agreed outcomes, and reach decisions on the appropriate regulatory measures.

Imported Foods Inspection Scheme

As previously stated, AQIS and FSANZ have joint responsibility for regulating the safety of food imports. FSANZ is responsible for conducting the risk assessment of imported foods and advising AQIS of the inspection requirements applied to imported foods[26]. AQIS is responsible for providing operational services at the border to carry out the necessary inspections, verifications and tests in line with FSANZ's advice. The operational services are carried out through AQIS's Imported Food Program.

The legal basis for the inspection of imported food in Australia is the *Imported Food Control Act 1992* (Cth).

The Imported Food Inspection Scheme has the responsibility for inspection of imported food at the border against the requirements of the Code.

[24] Implementation Sub-Committee, p6. Australia and New Zealand Food Regulation Ministerial Council – Principles and Protocols for the Development of Food Regulation Policy Guidelines, Food Regulation Standing Committee, Principles and Protocols Working Group endorsed 31 March 2005

[25] Food Standards Australia New Zealand p7. Australia and New Zealand Food Regulation Ministerial Council – Principles and Protocols for the Development of Food Regulation Policy Guidelines, Food Regulation Standing Committee, Principles and Protocols Working Group endorsed 31 March 2005

[26] http://affa.gov.au/content/output.cfm?ObjectID=D2C48F86-BA1A-11A1-A2200060A1B01838

States and Territories

The States and Territories are active members of the Ministerial Council and participating in the development of food policy, contributing to the development of food policy guidelines through FRSC, reviewing the development of new standards as well as implementing and enforce the Code in each of their jurisdictions. Implementation of the Code is through adoption of the Standards into their respective Food Acts.

Both implementation and enforcement of the Code is not uniform between the jurisdictions. It is worth noting that there are continuing efforts to develop a co-ordinated implementation strategy of the Code in Australia[27].

Local government

Local government, and in particular, the Environmental Health Officers (Ethos) play a vital role in enforcing the Code at a community level. Enforcement of the Code is one of many duties of the Ethos who are responsible for the enforcement of a wide range of environmental health issues. In the absence of a uniform model, the role of local government in the enforcement of the Code, between the State and Territory jurisdictions will differ.

Conclusion

There are many components of the food regulatory system in Australia. The system spans three levels of government (local, state/territory and commonwealth governments), several portfolios (principally health and primary industries) and requires collaboration between government, industry and consumers.

[27] "A strategy for consistent implementation of food regulation in Australia". This policy paper was endorsed by the Australia and New Zealand Food Regulation Ministerial Council, October 2005.

Chapter 3 - Quarantine Regulatory Framework

Introduction

The Australian quarantine system is supported by Commonwealth and State and Territory quarantine laws. Under the Australian Constitution (the Constitution), the Commonwealth Government does not have exclusive power to make laws in relation to quarantine, so Commonwealth and State laws on quarantine co-exist[28].

As previously stated, under the *Quarantine Act 1908* (Cth), the Commonwealth Government has responsibility in relation to pre-border and border monitoring, detection and control arrangements in respect of humans, animals and plants. Measures in the *Quarantine Act 1908* (Cth) are implemented by the Australian Quarantine Inspection Service (AQIS), an operating group within the Department of Agriculture, Fisheries and Forestry (DAFF). AQIS provides quarantine inspection for the arrival of international passengers, cargo, mail, animals and plants or their products into Australia, and inspection and certification for a range of animal and plant products exported from Australia[29].

The Australian Quarantine Regulation Model relevant to horticultural products

.The model comprises:

- The Primary Industries Ministerial Council (PIMC) whose role is to develop and promote sustainable, innovative and profitable agriculture, fisheries/aquaculture, and food and forestry industries. PIMC comprises of all Australian/State/Territory and New Zealand government ministers responsible for agriculture, food, fibre, forestry, fisheries and aquaculture and rural adjustment policy. Papua New Guinea is invited to participate in meetings as an observer. One permanent Standing Committee supports the Council[30].
- The Primary Industries Standing Committee (PISC) which is the permanent Standing Committee that directs the work of its subordinate committees, secures cooperation between members and advises the PIMC on the initiation, review and development of Standing Committee activities. Membership of PISC reflects the membership of the PIMC and comprises the heads of Departments for which the Ministers represented on the Council have portfolio responsibility. Papua New Guinea is a formal observer[31].
- The Primary Industries Health Committee (PIHC) which is a subcommittee of PISC and has been created to provide strategic policy, technical and regulatory advice to PISC on issues related to quarantine policy; animal, fish, plant and forest health; agricultural and veterinary chemicals; and related matters[32].
- The Plant Health Committee (PHC) which is a subcommittee of PIHC and addresses plant health issues. The work of the PHC is supported by four subcommittees; Consultative Committee on Emergency Plant Pests (CCEPP), Domestic Quarantine and Market Access Working Group (DQMAWG), Subcommittee on Plant Health and Diagnostic Standards, and Surveillance Reference Group. The membership of PHC comprises representatives from Biosecurity Australia, the Office of the Chief Plant Protection Officer, State and Territory departments of primary industries and agriculture, Plant Health Australia, the Commonwealth

[28] Import Risk Analysis Handbook, p 6. Biosecurity Australia, Department of Agriculture, Fisheries and Forestry, Australia 2003
[29] http://www.daff.gov.au/content/output.cfm?ObjectID=D2C48F86-BA1A-11A1-A2200060A1B00001
[30] http://www.mincos.gov.au/about_pimc.htm
[31] http://www.mincos.gov.au/about_pi_sc.htm
[32] http://www.mincos.gov.au/pi_sc_committees.htm#health

Scientific and Industrial Research Organisation (CSIRO) and Research Working Group 7 (Forestry Health). The New Zealand Ministry of Agriculture and Forestry (MAF) Biosecurity Authority has observer status[33].

- Plant Health Australia which is a company formed to address high priority plant health issues with members including the Australian Government, all State and Territory governments, and a range of plant industry organisations[34].
- Biosecurity Australia which provides science-based quarantine assessments and policy advice consistent with PIMC policy.
- Australian Quarantine Inspection Service (AQIS) whose responsibilities include ensuring border quarantine security, issuing import permits and providing export health certification.
- States and Territories which have principle responsibility for environmental management.

Roles and Responsibilities

Within the model the roles and responsibilities of individual organisations are as follows;

Primary Industries Ministerial Council (PIMC)

The terms of reference of the PIMC are to[35]:

- develop, implement and review policies and strategies for achieving agreed national approaches to the development of sustainable primary and related food industries;
- actively liaise with other Ministerial Councils and other bodies on matters relevant to the activities of PIMC; and
- direct the work of, and consider matters submitted by, it's standing committee (PISC).

Primary Industries Standing Committee (PISC)

PISCs' main objectives are to support the PIMC in the achievement of its objective to develop cooperative and coordinated approaches to matters of concern to PIMC[36].

To fulfill this role, PISC has developed three major advisory committees. Work from these committees is supported by a wide range of working groups and ad hoc task forces. The main advisory committees are the:

- Industry Development Committee;
- Primary Industries Health Committee; and
- Forestry and Forest Products Committee.

Primary Industries Health Committee (PIHC)

The Plant Industries Health Committee role is to manage and report to PISC on national and strategic issues in relation to quarantine policy; animal, fish, plant and forest health; agricultural and veterinary chemicals; and related matters[37].

Plant Health Committee (PHC)

[33] http://www.daff.gov.au/content/output.cfm?ObjectID=047C056D-AD1B-4FFD-AF9F2341E53102FF
[34] http://www.planthealthaustralia.com.au/who_we_are/background.asp
[35] http://www.mincos.gov.au/about_pimc.htm
[36] http://www.mincos.gov.au/about_pi_sc.htm
[37] http://www.mincos.gov.au/pi_sc_committees.htm#health

The Plant Health Committee provides policy, technical and regulatory advice to PISC on plant health matters. PHC has a role in the establishment of standards for adoption in national plant health programs and to facilitate a consistent approach to legislative outcomes for plant health activities in Australia. The principle focuses of the Committee's activities is facilitation of improved biosecurity for Australia's plant industries and contribute to safe domestic and international trade in plant products[38].

Plant Health Australia

Plant Health Australia (PHA) is a public company, with members including the Australian Government, all State and Territory governments and a range of plant industry organisation.

PHA is a national coordinating body that identifies and commissions projects and coordinates policy development at the national level to protect Australia's plant industries and related resources from the risks posed by organisms through the implementation of exclusion, eradication and control measures.

PHA is responsible the development and maintenance of PLANTPLAN, the technical response plan that describes the Australian approach to responding to Emergency Plant Pest (EPP) incursions[39].

Biosecurity Australia

Biosecurity Australia is part of the Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF). Biosecurity Australia was established as an entity separate from the Australian Quarantine and Inspection Service (AQIS) in October 2000 to distinguish biosecurity policy development and export technical market access negotiations from the operational work of AQIS.

Biosecurity Australia provides science based quarantine assessments and policy advice and is responsible for[40]:

- developing new biosecurity (sanitary and phytosanitary) risk management measures and reviewing existing measures for the importation of live animals and plants, and animal and plant products;
- working with AQIS on the implementation of biosecurity measures;
- conducting technical negotiations with counterpart agencies in other countries, to develop new market access and maintain and improve upon existing market access for Australian live animals and plants, their genetic material and plant products;
- participating in the activities of the international standard-setting organisations relevant to biosecurity; and,
- working with various Commonwealth and State/Territory organisations in relation to the continuum of quarantine.

Australian Quarantine Inspection Service (AQIS)

AQIS has operational responsibilities for quarantine that include ensuring border quarantine security, issuing import permits and providing export health certification. The operational role of

[38] http://www.daff.gov.au/content/output.cfm?ObjectID=047C056D-AD1B-4FFD-AF9F2341E53102FF
[39] PLANTPLAN: Australian Emergency Plant Pest Response Plan, Plant Health Australia, Canberra 2004.
[40] Import Risk Analysis Handbook, p 6. Biosecurity Australia, Department of Agriculture, Fisheries and Forestry, Australia 2003

AQIS with regard to the importation of horticultural products (e.g. flowers, vine cuttings, and seeds) and horticultural food products is supported by the Horticulture Imports sub-program.

States and Territories

State and Territory Governments have principle responsibility for environmental management within their jurisdictions.

Key plant health related legislation in the States and Territory include;

- *Noxious Weeds Act 1993* (New South Wales)
- *Flora and Fauna Guarantee Act 1988* (Victoria)
- *Agricultural and Related Resources Protection Act 1976* (Western Australia)
- *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986* (South Australia)
- *Weed Management Act 1999* (Tasmania)
- *Weeds Management Act 2001* (Northern Territory)

Administrative arrangements differ between the States and Territories in relation to the declaration of pest weed and animal species. Most states share common principles in relation to legislation such as declaration mechanisms, for example provisions that allow plants to be proclaimed 'noxious weeds', 'declared weeds' or 'pest plants'.

It should be noted that Queensland has almost uniquely delegated pest management to local government which, in part, explains why its key state statute is of an economic nature rather than environmental nature.

Conclusion

There are many components of the quarantine regulatory system in Australia. The system spans three levels of government (local, state/territory and commonwealth governments), several portfolios (principally primary industries and environment) and requires collaboration between government, industry and consumers.

Under the Australian Constitution (the Constitution), the Commonwealth Government does not have exclusive power to make laws in relation to quarantine, so Commonwealth and State laws on quarantine co-exist.

AQIS has operational responsibilities for quarantine that include ensuring border quarantine security, issuing import permits and providing export health certification.

Chapter 4 - Legislation and Regulation

Introduction

The purpose of this chapter is;

- Identify legislation and regulations associated with food standards, imported food and quarantine,
- Identify key components within the legislation and regulation with relevance to horticultural produce, and
- Provide commentary on the significance of key components of the legislation and regulation as required.

Food Standards Regulations

The legislation that enables the development of food standards in Australia is the *Food Standards Australia New Zealand Act 1991* (Cth) (FSANZ Act) and its subordinate regulations the *Food Standards Australia New Zealand Regulations 1994* (Cth) and *Food Standard Australia New Zealand Amendment Regulations 2004 (No 1)* (Cth).

Food standards developed under the *FSANZ Act 1991* (Cth) are set up in the *Australia New Zealand Food Standards Code* (Cth) (the Code) adopted by an intergovernmental agreement between the Australian States and Territories and New Zealand.

Food Standards Australia New Zealand Act 1991

The *FSANZ Act 1991* (Cth) established FSANZ as the joint Australia and New Zealand food regulatory body, pursuant to the Inter-governmental Food Regulation Agreement. FSANZ has responsibility for determining appropriate standards that, as envisaged by Government, protect public health and safety within the policy guidelines set by the Ministerial Council.

Below are listed key sections of the *FSANZ Act 1991* (Cth);

Section 3 of the *FSANZ Act 1991* (Cth) establishes a definition for food and has a meaning given by Section 3A.

Section 7 of the *FSANZ Act 1991* (Cth) defines the function of FSANZ for the setting of standards.

Section 9 of the *FSANZ Act 1991* (Cth) defines matters that may be included in standards and variation of standards.

Section 10 of the *FSANZ Act 1991* (Cth) establishes the objectives for FSANZ in its setting of food standards.

Section 10(1) of the *FSANZ Act 1991* (Cth) states that:

> "The objectives (in descending priority order) of the Authority is developing or reviewing food regulatory measures and variations of food regulatory measures are:
> a) the protection of public health and safety;
> b) the provision of adequate information relating to food to enable consumers to make informed choices; and
> c) the prevention of misleading or deceptive conduct."

Section 10(2) of the *FSANZ Act 1991* (Cth) states that:

> "In developing or reviewing food regulatory measures and variations, the Authority must also have regard to the following:
> a) the need for standards to be based on risk analysis using the best available scientific evidence:
> b) the promotion of consistency between domestic and international food standards;
> c) the desirability of an efficient and internationally competitive food industry:
> d) the promotion of fair trading in food;
> e) any written food regulation policy guidelines formulated by the Council for the purposes of this paragraph and notified to the Authority."

Section 10(3A) of the *FSANZ Act 1991* (Cth) provides that policy guidelines formulated by the Ministerial Council must not be inconsistent with these objectives.

Section 10(5) of the *FSANZ Act 1991* (Cth) defined a sanitary or phytosanitary measure.

Section 36A of the *FSANZ Act 1991* (Cth) establishes that the Authority may rely on work or processes of other government agencies

Section 70 of the *FSANZ Act 1991* (Cth) establishes the Regulations.

Food Standards Australia New Zealand Regulations 1994 (Cth) and *Food Standard Australia New Zealand Amendment Regulations 2004 (No 1)* (Cth)

The Food Standards Regulations largely define the administrative issues associated with development and variation of standards. Of particular note are the regulations associated with the category of assessment of an application to amend the Code, exclusive and capturable commercial benefits, and fees associated with lodging an application to modify the Code.

Australia New Zealand Food Standards Code (Cth)

The Code is adopted as the required standards for food produced in New Zealand and the States and Territories and Commonwealth of Australia in relation to food sold and/or imported into both countries.

An overview of the food standards requirements for fresh and prepared horticultural produce is presented in Appendix 4 – Food Standards Code requirements for fruit and vegetables.

Comment

Country of Origin Requirements

On the 8 December 2005 Standard 1.2.11 – Country of Origin Requirements was included in the Code. Under Annex D of the *Agreement Between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System*, New Zealand has varied from this Standard. Accordingly, this Standard does not apply in New Zealand. There is a 2-year transition period for adoption of Standard 1.2.11 – Country of Origin Requirements - in Australia for packaged goods; six months (to 8th June 2006) for fresh fruit and vegetables.

Comment

The requirements for food can be quite complex.

As defined in Section 10 the *FSANZ Act 1991* (Cth), public health and safety is the most important consideration in the development or variation of a food standard. It does not, however, imply that all food standards are established and implemented exclusively for public health and safety purposes.

An example of a standard that at times is misunderstood in the community is Standard 1.4.2 – Maximum Residue Limits. In many cases, listing of an agricultural and veterinary chemical in this Standard, with a specific maximum residue limit, is not necessarily consistent with a defacto public health and safety limit. It may, in many cases, represent a threshold associated with the chemical's use in good agricultural practice.

Furthermore, as previously stated, food produced in New Zealand is exempt from large sections of the Code (e.g., country of origin, maximum residue limits, processing standards, food safety standards and the primary production and processing standards).

It is also worth noting that implementation of Chapter 3 – Food Safety Standards - varies between the States and Territory jurisdictions.

Regulation of Imported Food

As previously stated Commonwealth imported food laws are contained in the *Imported Food Control Act 1992* (Cth) and its subordinate legislation found in the *Imported Food Control Regulations 1993* (Cth) and *Imported Food Control Order 2001* (Cth).

In addition, AQIS uses Imported Food Notices to inform stakeholders of variations to matters relating to changes to operational requirements in the monitoring of food imported into Australia.

Imported Food Control Act 1992 (Cth)

The *Imported Food Control Act 1992* (Cth) establishes the Imported Food Inspection Scheme as the mechanism to assess compliance of food imported into Australia with Australian food standards or the requirements of public health and safety (refer to definition of *failing food* below).

Section 3(1) of the *Imported Food Control Act 1992* (Cth) contains a number of definitions including compliance agreement, examinable food, food, Food Inspection Scheme, holding order, label, package, recognised foreign government certificate and recognised quality assurance certificate.

Below is a list of noteworthy definitions:

applicable standard, in relation to particular food, or a particular matter affecting food, at a particular time, means the national standard in force in relation to that food or matter at that time.

failing food means examinable food, that:

(a) as a result of an inspection, or inspection and analysis, under the Food Inspection Scheme, is found to be:

(i) food that does not meet the applicable standards for that food; or

(ii) food that poses a risk to human health; or

(b) is taken, under the provisions of the Scheme, to be such food.

national standard, in relation to a particular food or a particular matter affecting food, means a standard relating to that food or matter:

(a) that is in force as a standard adopted by the *Australia New Zealand Food Standards Council*; or

(b) that is included in the *Australia New Zealand Food Standards Code* (Cth).

Comment

Therefore the *Imported Food Control Act 1992* (Cth) defines that a food is *failing food* if that food does not meet the Code (see definition of the *national standard* above).

Below are listed key sections of the *Imported Food Control Act 1992* (Cth);

Section 3(2) of the *Imported Food Control Act 1992* (Cth) states:

"For the purposes of this Act, food poses a risk to human health if:

(a) it contains:

(i) pathogenic micro-organisms or their toxins; or

(ii) micro-organisms indicating poor handling; or

(iii) non-approved chemicals or chemical residues; or

(iv) approved chemicals, or chemical residues, at greater levels than permitted; or

(v) non-approved additives; or

(vi) approved additives at greater levels than permitted; or

(vii) any other contaminant or constituent that may be dangerous to human health; or

(b) it has been manufactured or transported under conditions which render it dangerous or unfit for human consumption.

3 (3) In subsection 3 (2):

(a) a reference to approved chemicals, approved chemical residues or approved additives is a reference to chemicals, chemical residues or additives approved in a standard:

(i) made under the *Food Standards Australia New Zealand Act 1991* (Cth) after the commencement of Part 1 of Schedule 1 to the *Australia New Zealand Food Authority Amendment Act 200*1; or

(ia) adopted by the Australia New Zealand Food Standards Council under *Australia New Zealand Food Authority Act 1991* (Cth) before the commencement of Part 1 of Schedule 1 to the *Australia New Zealand Food Authority Amendment Act 2001* (Cth); or

(ii) included in the *Australia New Zealand Food Standards Code* (Cth); and

(b) a reference to permitted levels in relation to such approved standards, approved chemical residues, or approved additives is a reference to levels of those chemicals, chemical residues or additives permitted in such a standard; and

(c) a reference to non-approved chemicals, non-approved chemical residues or non-approved additives is a reference to chemicals, chemical residues or additives that are not approved in such a standard."

Comment

Section 3(2) of the *Imported Food Control Act 1992* (Cth) presents a broad definition for *food poses a risk to human health* - implicit in the definition is the presence of non-approved chemicals and chemical residues in food – regardless of their potential toxicity.

Therefore, the presence of non-approved chemicals or chemical residues in food, by definition, *poses a risk to human health.*

Section 7 of the *Imported Food Control Act 1992* (Cth) establishes the food to which the Act applies.

Of particular relevance to the integrity of the entire imported food regulatory scheme is the exemption outlined in Section 7(1aa) which states;

> "(1) This Act applies to all food imported into Australia other than:
> (aa) food that is imported from New Zealand and is of a kind that is specified by the regulations to be food to which this Act does not apply."

Comment

The *Imported Food Control Act 1992* (Cth) identifies food imported from New Zealand as largely being exempt from the imported food regulatory framework. More importantly, as previously stated, the New Zealand food laws incorporate significant deviations from the Code (see Chapter 1 of this report – Food imported from or via New Zealand).

Section 8 and Section 8A of the *Imported Food Control Act 1992* (Cth) establishes importation and labelling offenses respectively.

Section 15 of the *Imported Food Control Act 1992* (Cth), establishes holding orders for certain foods.

Section 16 of the *Imported Food Control Act 1992* (Cth), sets out the particulars for a Food Inspection Scheme.

Section 18 of the *Imported Food Control Act 1992* (Cth), defines foreign government certificates.

Section 19 of the *Imported Food Control Act 1992* (Cth), defines quality assurance certificates.

Section 34 of the *Imported Food Control Act 1992* (Cth) establishes the appointment of analysts.

Section 35A of the *Imported Food Control Act 1992* (Cth) established the process by which the Secretary, on behalf of the Government, may enter into a compliance agreement with a person.

Section 43 of the *Imported Food Control Act 1992* (Cth) establishes the Regulations.

Imported Food Control Regulations 1993 (Cth)

The *Imported Food Control Regulations 1993* (Cth) are divided into four Parts; preliminary (including commencement and definitions), food control, food inspection scheme and fees, with attached schedules.

Part 2 - Food control

Regulation 3A further defines foods from New Zealand that the *Imported Food Control Act 1992* (Cth) does not apply to. It specifically states:

"3A To what food does the Act not apply?

For paragraph 7 (1) (aa) of the Act, the Act does not apply to food that:
(a) is imported from New Zealand; and
(b) was made or produced in New Zealand; and
(c) is not risk food.

Note For ***risk food***, see regulation 9."

Comment

Reading the *Imported Food Control Regulation 1993* (Cth) as written, indicates that food exempt from inspection through the Imported Food inspection Scheme, is food that is imported **from** New Zealand, AND was made or produced in New Zealand, AND is not a 'risk food'. Specifically:

Regulation 3A states;

"(a) is imported from New Zealand; and
(b) was made or produced in New Zealand; and
(c) is not a risk food."

Somewhat inconsistent with Regulation 3A of the *Imported Food Control Regulation 1993* (Cth) are the arrangements developed under the *Trans Tasman Mutual Recognition Act 1997* (Cth) (TTMRA). Under the TTMRA, Active Surveillance and Random Surveillance Category foods imported **from** or **via** New Zealand, are specifically exempted from the requirements of the *Imported Food Control Act 1992* (Cth) (see Appendices 2 and 3 of this report). Specifically the food:

- must be imported into New Zealand,
- must comply with New Zealand Food laws, and
- be labelled at the point of sale in Australia as having been imported into New Zealand.

Therefore, there is no requirement for a food, to **actually be produced** in New Zealand, for it to be exempt from the *Imported Food Control Act 1992* (Cth). Implicit in this exemption, is a mechanism that facilitates trans-shipment of food products through New Zealand, to Australia, with a minimum of regulatory oversight.

Please note the TTMRA has not been reviewed in detail in this report.

Part 3 - Food Inspection Scheme

The Regulations for the Food Inspection Scheme (the Scheme) largely define the administrative tools associated with the operation of the Scheme. The Regulations in this Part include definitions for how a food may be classified, the rate which food must be referred for inspection, inspection rates, sampling rates, holding orders, and the holding of foreign government and quality assurance certificates.

Below are listed key Regulation in Part B of the *Imported Food Control Regulation 1993* (Cth);

Regulation 7 defines the orders that the Minister may make for the Scheme.

7 What orders may the Minister make in relation to the Scheme?
Subject to section 17 of the Act, the Minister may:
(a) make orders, not inconsistent with the Act or any Regulations under the Act, identifying food of a particular kind as food of a kind that is required to be inspected, or inspected and analysed, under the Scheme; and
(b) from time to time vary orders made under this regulation.

Regulation 8 defines the classification of food for the purposes of the Scheme.

"8 How may food be classified?

The Minister may make orders classifying food of a particular kind to which the Act applies as:
(a) risk food; or
(b) active surveillance food; or
(c) random surveillance food."

Regulation 9 contains a definition of a risk food.

"9 What is meant by *risk* food?

Food of a particular kind may be classified as risk food if the Australia New Zealand Food Authority advises the Minister under subsection 17 (1) of the Act that the food has the potential to pose a high or medium risk to public health."

Comment

It is important to note, that there is a distinction between – '*food poses a risk to human health'* as defined by Section 3(2) of the *Imported Food Control Act 1992* (Cth) and a 'risk food' as defined by Regulation 9 of the *Imported Food Control Regulation 1993* (Cth) - for the purposes of administering the Scheme.

Regulation 10 defines active surveillance food.

"10 What is meant by *active surveillance* food?

Food of a particular kind may be classified as active surveillance food if it:
(b) is not classified as risk food; and

(b) the Australia New Zealand Food Authority advises the Minister under subsection 17 (1) of the Act that the food should be classified as active surveillance food."

Regulation 11 defines random surveillance food.

"11 What is meant by *random surveillance* food?

Food must be classified as random surveillance food if it is not:
(a) classified as risk food; or
(b) classified as active surveillance food; or
(c) the subject of a holding order."

Regulation 18 defines when food is taken to be failing. Specifically:

"18 When is food taken to be failing food?
A particular lot of food from a batch is taken to be failing food if:
(a) 1 sample in the batch fails inspection; and
(b) the particular lot concerned has not passed inspection."

Comment

Failing food is largely associated with food not passing or food failing inspection. Inspection may include visual inspection or visual inspection and laboratory analyses.

Regulation 29 defines how food is to be analysed under the Scheme. Specifically:

"29 How is food to be analysed under the Scheme?

Food required to be analysed under the Scheme may be subjected to microbiological, chemical or physical analysis, or any other kind of analysis, necessary to determine whether:
(a) it poses a risk to human health; or
(c) it complies with the Food Standards Code."

Comment

It is quite possible that the Imported Food Program and FSANZ are using Regulation 29 (a) of the *Imported Food Control Regulations 1993* (Cth) as the legal basis for the development of the risk-based administrative procedures associated with the inspection and analysis of food imported into Australia.

The use of the word OR in Regulation 29 could have arisen to address issues where the Code is silent on a particular hazard/risk combination that may pose a risk to public health and safety.

However this report does not purport to provide an examination of the legislative intent in this regard.

An example, from a horticultural perspective, of a hazard/risk combination that may pose a risk to public health and safety, for which the Code is currently silent, is the absence of a microbiological standard for *Listeria monocytogenes* in packaged fresh cut salads. A way that the State and

Territory jurisdictions may approach a food safety incident in the aforementioned example could be to use the 'safe and suitable' provisions of their individual *Food Acts*.

As the 'safe and suitable' provision does not apply to the Code and, and as the *Imported Food Control Act 1992* (Cth) only references the Code as the national standard, Regulation 29 (a) may be the Scheme's method for incorporating a 'safe and suitable' provision in the operation of the Scheme.

To clear up any possible confusion relating to the intent of Regulation 29 – a suggested revision to Regulation 29 of the *Imported Food Control Regulation 1993* (Cth), would be the removal of the word OR in Regulation 29 (a) and its replacement with the word AND.

The effect of the nominated change would be to improve the consistency of Regulation 29 with the stated food standards requirements identified in the *Imported Food Control Act 1992* (Cth) as well as ensuring the fair and equitable treatment of imported food, consistent with good regulatory practice.

Furthermore, the change would strengthen the public health and safety attributes of the Regulation, by preserving the 'safe and suitable' provision contained therein, while enhancing the capability of the Regulation to ensure the intent of the *Imported Food Control Act 1992* (Cth) is preserved by conducting analyses consistent with the requirements of the Code.

Specific reference to regulations regarding referral and inspection rates, sampling and foreign government and quality assurance certification are made elsewhere in this report and as such will not be expanded in this section.

Imported Food Control Orders 2001 (Cth)

The *Imported Food Order 2001* (Cth) defines Risk Category and Active Surveillance Category Food required to be inspected, or inspected and analysed, under the Scheme. Variations in the Imported Food Orders are made in consultation with FSANZ and based upon risk assessment conducted by FSANZ.

Imported Food Notices (Cth)

Imported Food Notices provide information to AQIS clients, appointed laboratories, FSANZ, and AQIS staff on matters relating to changes to operational requirements in the monitoring of food imported into Australia. These notices are essential for AQIS stakeholders to keep abreast of issues relating to imported food requirements. A list of imported food notices of particular relevance to imported horticultural produce is included in Appendix 5 – Imported Food Notices.

More information relating to Imported Food Notices is available from the AQIS Imported Food Program website[41].

Quarantine Regulations

Australia quarantine requirements are outlined in the:

Quarantine Act 1908 (Cth),

[41] http://www.affa.gov.au/content/output.cfm?ObjectID=AD985AA3-4C6C-477B-9947002B7219998C

Quarantine Proclamation 1998 (Cth),
Quarantine (Christmas Island) Proclamation 2004 (Cth),
Quarantine (Cocos Islands) Proclamation 2004 (Cth),
Quarantine Regulations 2000 (Cth),
Quarantine Service Fees Determination 2005 (Cth),
Quarantine Service Fees (Australia Post) Determination 2005 (Cth),
Notice of Declaration of a Special Quarantine Zone (Cth),
Import Risk Analysis
Import Conditions Database

This report reviews the *Quarantine Act 1908* (Cth), *Quarantine Regulations 2000* (Cth) and *Quarantine Proclamation 1998* (Cth).

Quarantine Act 1908 (Cth)

Key sections of the *Quarantine Act 1908* (Cth) are listed below:

Section 2A of the *Quarantine Act 1908* (Cth) establishes the power to supersede Quarantine measures under State Acts.

Section 2B of the *Quarantine Act 1908* (Cth) establishes Proclamation in the event of epidemic.

Section 4 of the *Quarantine Act 1908* (Cth) defines the scope of quarantine.

Section 5 of the *Quarantine Act 1908* (Cth) contains a series of definitions for use in interpretation of the Act including the definition of a plant and for treatment;

> "***Plant*** includes a dead plant and any part of a plant."
>
> "***treatment*** means any process for controlling or eliminating a disease or pest and:
> (a) in relation to a vessel, installation or premises, includes examination, spraying, fumigation, disinfection, denaturing and cleaning; and
> (b) in relation to a person, includes examination, spraying, fumigation, disinfection and cleaning; and
> (c) in relation to an animal, includes examination, disinfection, denaturing, vaccination, testing and veterinary treatment; and
> (d) in relation to a plant or other goods, includes examination, spraying, fumigation, disinfection, denaturing, sorting, cleaning and repacking."

Section 5D of the *Quarantine Act 1908* (Cth) defines the level of quarantine risk:

> "A reference in this Act to a ***level of quarantine risk*** is a reference to:
> (a) the probability of:
> (i) a disease or pest being introduced, established or spread in Australia, the Cocos Islands or Christmas Island; and
> (ii) the disease or pest causing harm to human beings, animals, plants, other aspects of the environment, or economic activities; and
> (d) the probable extent of the harm."

Section 6B of the *Quarantine Act 1908* (Cth) defines the power to make, vary, suspend or revoke various instruments etc.

Section 11C of the *Quarantine Act 1908* (Cth) defines the requirements to seek advice from the Environment Minister about proposed decisions involving significant risk of environmental harm.

Section 13 of the *Quarantine Act 1908* (Cth) defines the establishment of relevant Proclamations.

Section 16AC of the *Quarantine Act 1908* (Cth) establishes the notice of proposed importation of goods.

Section 35 of the *Quarantine Act 1908* (Cth) provides the power to order to perform quarantine.

> "(1AAA) A quarantine officer may, by order in writing, order into quarantine any goods that, in his or her opinion, are or are likely to be quarantinable pests or quarantinable diseases."

Section 46A of the *Quarantine Act 1908* (Cth) outlines the requirements for approvals for the purpose of goods subject to quarantine.

Section 48 of the *Quarantine Act 1908* (Cth) outlines the powers of quarantine officers with respect to goods ordered into quarantine.

Section 48AA of the *Quarantine Act 1908* (Cth) establishes the treatment and destruction of goods.

Section 48AC of the *Quarantine Act 1908* (Cth) defines a diseased plant grown from another plant.

Part V of the Act defines the quarantine of animals and plants. Of particular relevance is Section 53 relating to the examination of plants on importation.

> "(1) A quarantine officer or an authorized person may examine any imported plant that has not been released from quarantine.
>
> (2) A quarantine officer must:
> (a) if he or she is of the opinion that there is an unacceptably high level of quarantine risk in respect of the plant—order the plant into quarantine; or
> (b) otherwise—release the plant from quarantine."

Section 56 of the *Quarantine Act 1908* (Cth) establishes the automated entry processing and release of imported goods.

Section 66B of the *Quarantine Act 1908* (Cth) defines the establishment of compliance agreements between a Director of Quarantine and a person.

Section 87 of the *Quarantine Act 1908* (Cth) establishes the Regulations.

Quarantine Regulations 2000 (Cth)

The *Quarantine Regulations 2000* (Cth) are the only set of Regulations now in force. The *Quarantine (General) Regulations 1956* (Cth), the *Quarantine (Animals) Regulations* (Cth), the *Quarantine (Plants) Regulations* (Cth) and the *Quarantine (Cocos Islands) Regulations 1982* (Cth) have been repealed. Section 6 of the *Quarantine Act 1908* (Cth) states that the Act extends to the Cocos Islands and Christmas Islands.

Under Section 6AB of the *Quarantine Act 1908* (Cth), the Act also extends to the Territory of Ashmore and Cartier Island, but does not apply to the following external Territories:

- Australian Antarctic Territory,
- Coral Sea Islands,
- Heard and McDonald Island, or
- Norfolk Island.

The *Quarantine Regulation 2000* (Cth) can be confusing. For example, the in *Quarantine Regulations 2000* (Cth), the word Australia does not include the Cocos Island or Christmas Island, but includes the Territory of Ashmore and Cartier Islands.

Regulations of importance to the importation of horticultural products into Australia are be listed in the Part 5 of the *Quarantine Regulations 2000* (Cth) (and deals with the importation of goods) and Part 7 – Division 2 of the *Quarantine Regulations 2000* (Cth) (which deals with compliance agreements).

Quarantine Proclamation 1998 (Cth)

Most of the Proclamation is about things that can not be imported into Australia. Of particular relevance to imported horticultural produce is Part 7 – Plant quarantine and Part 8 – Administration of the *Quarantine Proclamation 1998* (Cth).

Part 7 – Plant Quarantine of the *Quarantine Proclamation 1998* (Cth) details quarantine treatment of plants as enabled by the *Quarantine Act 1908* (Cth).

Section 57 of the *Quarantine Proclamation 1998* (Cth) contains definitions for Part 7.

> "In this Part:
> **fruit and vegetable** do not include a seed.
> **genetic manipulation** does not include artificial selection, but includes:
> (a) the insertion of genetic material produced outside a cell into a vector so as to allow the genetic material to be incorporated into a host organism to produce new combinations of genetic material; and
> (b) directly introducing, into an organism, genetic material prepared outside it; and
> (c) fusing 2 or more cells to form live cells with new combinations of genetic material.
> **plant product** means a product, wholly or partially of plant origin, that has been processed to prevent:
> (c) the plant material from being infected or contaminated with a quarantinable disease; and
> (d) the plant material being capable of propagation.
> **seed** includes a nut."

Section 57A of the *Quarantine Proclamation 1998* (Cth) defines plant products excluded from application of Part 7, specifically

> "Part 7 does not apply to plant products"

Comment

Definition in Section 57 and exclusion noted in Section 57A effectively removes products that are defined as 'plant products' from the requirements of quarantine.

This has significant relevance for 'processed' horticultural produce.

Section 58 of the *Quarantine Proclamation 1998* (Cth) defines "quarantinable diseases of plants and quarantinable pests (Quarantine Act, ss 5(1) (definitions of quarantinable disease and quarantinable pest) and 13 (1) (ca))".

Section 61 of the *Quarantine Proclamation 1998* (Cth) establishes "the importation of plants and plant parts affected by quarantinable pests". Specifically:

> "The importation into Australia of a plant, or part of a plant, that is infected, infested or contaminated with a quarantinable pest prohibited unless a Director of Quarantine has granted the person wishing to import into Australia a permit to do so.
>
> Note For what a Director of Quarantine must consider when deciding whether such a permit, see Part 8."

Section 62 of the *Quarantine Proclamation 1998* (Cth) establishes "the importation of living plants (Quarantine Act, ss 5 (1) and 13 (1) (d), (e), and (f))".

Section 63 of the *Quarantine Proclamation 1998* (Cth) establishes "the importation of seeds (Quarantine Act, ss 5 (1) and 13 (1) (d), (e), and (f))".

Section 64 of the *Quarantine Proclamation 1998* (Cth) establishes "the importation of fresh fruit and vegetables (Quarantine Act, ss 5 (1) and 13 (1) (d), (e), and (f))". Specifically:

> "(1) For this Section, a fruit and vegetable is fresh if it is not deep-frozen, dried, canned or otherwise conserved or preserved.
>
> (2) The importation into Australia of a fresh fruit or vegetable is prohibited unless a Director of Quarantine has granted the person with a permit to import it into Australia
>
> Note For what a Director of Quarantine must consider when deciding whether such a permit, see Part 8."

Section 65 of the *Quarantine Proclamation 1998* (Cth) establishes "the importation of other plant parts (Quarantine Act, ss 5 (1) and 13 (1) (d), (e), and (f))".

Part 8 – Administration of the *Quarantine Proclamation 1998* (Cth) details administrative details of quarantine as enabled by the *Quarantine Act 1908* (Cth).

Part 8, Section 70 of the *Quarantine Proclamation 1998* (Cth) establishes "things a Director of Quarantine must take into account when deciding whether to grant a permit for importation into Australia". Specifically:

> "In deciding whether to grant a permit to import a thing into Australia or for the removal of a thing from the Protected Zone or the Torres Strait Special Quarantine Zone to the rest of Australia, a Director of Quarantine:
> (a) must consider the level of quarantine risk if the permit is granted; and
> (b) must consider whether, if the permit were granted, the impositions of conditions on it would be necessary to limit the level of quarantine risk to one that is acceptably low; and

(ba) for a permit to import seed of a kind of plant that was produced by genetic manipulation – must take into account any risk assessment prepared, and any decision made, in relation to the seed under the Genetic Technology Act; and
(c) may take into account anything else that he or she knows that is relevant.

Note Level of quarantine risk is defined in section 5D of the Quarantine Act."

Comment

The requirement set out in *Quarantine Proclamation 1998* (Cth)70 (b) that deals with the imposition of conditions necessary to limit the level of quarantine risk and is the likely legislative justification for the establishment of the Import Risk Analysis process used by Biosecurity Australia.

However this report does not purport to provide an examination of the legislative intent in this regard.

Import Risk Analysis

Quarantine control of food is an area of particular concern. Generally, if food is processed to an extent that would eliminate the hazard that is of quarantine concern to Australia there is no restriction.

Fresh and partially processed foods brought into Australia have the potential to introduce exotic pests and diseases.

As a World Trade Organisation (WTO) member, Australia is obliged under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) to consider all import requests from other countries concerning agricultural products[42].

The Australian government has a formal mechanism in place for evaluating the degree of risk associated with the importation of certain products or produce from foreign countries.

Biosecurity Australia plays a significant role in the development of new quarantine policies and has specific responsibilities for scientific risk assessment as well as development of risk management strategies.

The process to develop a new quarantine policy, where no policy exists, is called an import risk analysis (IRA). Biosecurity Australia is responsible for administering import risk analysis applications, conducting the import risk analysis and communicating the outcomes of these determinations to stakeholders.

Decisions to permit or reject an import application can be made only on sound scientific grounds[43].

Further information on the IRA process can be obtained from the Import Risk Analysis Handbook 2003 available from the Biosecurity Australia website[44].

[42] http://www.daffa.gov.au/ba/about
[43] http://www.daffa.gov.au/ba/about
[44] Import Risk Analysis Handbook, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry, Australia 2003.

Biosecurity Australia also works with two other main international agencies with relevance to horticultural produce that set standards for plant health, and food[45]. These are:

- The Codex Alimentarius Commission, which sets international standards relating to food additives, veterinary drugs, and pesticide residues;
- The International Plant Protection Convention (IPPC) which provides a framework for international cooperation, sets international standards and exchanges information on plant health.

The current status of plant Import Risk Analyses (IRAs) relevant to horticultural produce being conducted by Biosecurity Australia as at January 2 2006, is summarised Appendix 6 - Current status of Plant Import Risk Analyses relevant to horticultural produce.

Comment

In keeping with the scope of the *Quarantine Act 1908* (Cth) (see Sections 2.2 and 3.1 of Import Risk Analysis Handbook 2003) and Australia's obligations as a member of the WTO, economic considerations are taken into account in the IRA process only in relation to matters arising from the potential direct and indirect impact of pests and diseases that could enter, establish or spread in Australia as a result of importation.

The potential competitive economic impact of prospective imports on domestic industries is not within the scope of IRAs.

Biosecurity Australia – Acceptable Level Of Protection (ALOP)

The concept of acceptable level of protection is particularly relevant to the import risk analysis as it provides a mechanism to define the 'risk' associated with the importation of a particular 'quarantinable' import. From a legislative perspective it provides the science to assess the "Level of quarantine risk as defined in section 5D of the *Quarantine Act 1908* (Cth) as well as Section 70 of the *Quarantine Proclamation 1998* "things a Director of Quarantine must take into account when deciding whether to grant a permit for importation into Australia"

"The *SPS Agreement* defines 'appropriate level of sanitary or phytosanitary protection' as the level of protection deemed appropriate by the Member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory. The *SPS Agreement* notes that many Members also refer to this concept as the 'acceptable level of risk': **In setting their appropriate level of protection (ALOP), Members are to take into account the objective of minimising negative trade effects (Article 5.4)[46]**."

"Determination of Australia's ALOP is an issue for Australian, State and Territory Government in consultation with the community — it is not a prerogative of WTO. ALOP reflects government policy that is affected by community expectations; it is a societal value judgment to which DAFF contributes by providing technical information and advice. **It is important to note that the *SPS Agreement* does not require a Member to have a scientific basis for its ALOP determination**.[47]"

[45] http://www.daffa.gov.au/ba/about
[46] Import Risk Analysis Handbook, p 34. Biosecurity Australia, Department of Agriculture, Fisheries and Forestry, Australia 2003.
[47] Import Risk Analyses for the Importation of Fresh Pineapple Fruit – Final IRA Report; p25 Biosecurity Australia, July 2002, Canberra ACT

Biosecurity Australia – Consistency in Risk Management

Members are obliged to avoid arbitrary or unjustifiable distinctions in the levels of protection applied in different situations, if such distinctions result in discrimination or a disguised restriction on international trade. This obligation reflects the objective of consistency in applying the concept of ALOP against risks to human, animal and plant life or health — that is, consistency in risk management. In other words, it is not open to a Member to arbitrarily vary its attitude to the acceptance of risk from one situation to another[48].

Import Conditions Database (ICON)

The importation of some products is, by law, subject to certain quarantine conditions, outlined in the AQIS Import Conditions database (ICON). Some products have been assessed as posing significant risk and are not allowed entry into Australia. Other products are only allowed into Australia upon the granting of an Import Permit from AQIS.

ICON is AQIS's import conditions database. It contains information relating to the Australian import conditions for more than 20,000 plant, animal, microbial, mineral and human commodities. It can be used to determine if a commodity intended for import to Australia needs a quarantine permit and/or treatment or if there are any other quarantine prerequisites[49].

Conclusion

The legislation and regulations associated with food standards, imported food and quarantine into Australia are complex.

Of relevance to the equivalence of imported horticultural products are the following:

- Under Annex D of the *Agreement Between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System*, New Zealand can opt out of implementation of various Standards in the *Australia New Zealand Food Standards Code* (Cth);

- Section 7 of the *Imported Food Control Act 1992* (Cth) identifies food imported from New Zealand as largely being exempt from the imported food regulatory framework;

- Regulation 29 of the *Imported Food Control Regulations 1993* (Cth) defines how food is to be analysed under the Imported Food Inspection Scheme; and,

- Definitions within Part 7 – Plant Quarantine of the *Quarantine Proclamation 1998* (Cth) effectively removes products that are defined as 'plant products' from the requirements of quarantine.

[48] Import Risk Analyses for the Importation of Fresh Pineapple Fruit – Final IRA Report; p27 Biosecurity Australia, July 2002, Canberra ACT
[49] http://www.aqis.gov.au/icon32/asp/homecontent.asp

Chapter 5 – AQIS Quality Assurance Programs

Introduction

There are a variety of regulatory quality assurance programs in place in Australia that are relevant to horticultural produce. It is worth noting, as an alternative to routine inspection, AQIS has the capacity to enter into agreements with foreign governments or individual entities with appropriate quality assurance arrangements.

This chapter provides comment on the AQIS Import Clearance Compliance Agreement Model and, in particular the AQIS Imported Food Quality Assurance Arrangements.

Import Clearance Compliance Agreement Model – Co-Regulation

The Quarantine and Exports Advisory Council Co-Regulation, Quality Assurance and Third Party Policy Sub-Group has defined Co-Regulation as "the concept of industry involvement in traditional AQIS regulatory activities, both import and export, with Compliance Agreements (including arrangements such as Quality Assurance) being the mechanisms for managing these arrangements between AQIS and industry".

Section 66B of the *Quarantine Act 1908* (Cth) and Section 35A of the *Imported Food Control Act 1992* (Cth) provides for the adoption of Compliance Agreements relevant to certain quarantine and imported food activities governed by the Acts. The Compliance Agreement is a legally binding agreement between AQIS/the Government and an industry party (Other Party), which requires the Other Party to perform specific tasks in an agreed manner.

In order to ensure that Compliance Agreements operate in a nationally consistent manner, and in accordance with the provisions of each of the Acts under which AQIS performs its regulatory responsibilities, the Import Clearance Compliance Agreement Model has been developed to outline uniform legal and administrative arrangements that all Compliance Agreements will operate under. This model encompasses the AQIS Model for Co-Regulation as well as the administrative processes that underpin the development and ongoing maintenance of Compliance Agreements.

In order for the Co-Regulation concept to be realised, the Import Clearance Compliance Agreement Model has been developed to reflect how the legal, operational and administrative arrangements required to underpin co-regulatory initiatives are achieved.

The two fundamental elements that make up the Import Clearance Compliance Agreement Model are[50]:

Part A, which provides the legal basis upon which the co-regulatory initiatives operate to meet the provisions of the relevant legislation. Breaches or requirements detailed within the Compliance Agreement are offences and may lead to the termination of the Compliance Agreement and may be prosecuted under the relevant governing legislation.

[50] Import Clearance Compliance Agreement Model – Industry Guide, p3. DAFF. Canberra. February 2005. http://www.affa.gov.au/corporate_docs/publications/pdf/quarantine/border/2005/ca_model.pdf

Part B, which covers the operational and administrative arrangements to ensure AQIS and the Other Party meet the requirements imposed under Compliance Agreements. Initial breaches of responsibilities detailed under Operational Procedures Statements will be addressed through administrative sanctions under the agreed General Policies within the Operational Procedures Statements, but more serious breaches may be dealt with under the Standard Terms of the Compliance Agreement.

Neither part of the Compliance Agreement can operate in isolation.

Import Clearance Compliance Agreement – Quarantine

Section 66B of the *Quarantine Act 1908* (Cth) establishes compliance agreements and Part 7 Division 2 of the *Quarantine Regulations 2000* (Cth) defines the administrative arrangements of compliance agreements. Expanded below are several Regulations relevant to the administration of quarantine compliance agreements. Specifically:

"Regulation 72 Documentation and undertaking

(1) For subsection 66B (2) of the Act, a compliance agreement must:
  (a) describe the records that must be created, and the documents that must be kept, by the other party for:
    (i) the procedures for goods mentioned in the agreement; and
    (ii) supervising, monitoring, and testing the compliance with, those procedures by the other party; and
  (b) describe the examinations or services that are to be conducted by the Commonwealth under the agreement to monitor and test compliance with the agreement by the other party, for which the Commonwealth will charge a fee; and
  (c) require the other party;
    (i) to keep records and documents mentioned in paragraph (a) at premises where the procedures authorised by the agreement are conducted; or
    (ii) to provide records and documents to a quarantine officer on request by the officer within such a time as is allowed under the agreement, subject to any other conditions set out in the agreement

(2) In this regulation:
  Other party means a party, except the Commonwealth, to the compliance agreement.

73 Who may sign compliance agreements

A compliance agreement may be signed for a body corporate by a director, manager or senior executive of the body corporate who:
  (a) has responsibility for business operations of the body corporate; and
  (b) is authorised to enter into contracts for the body corporate.

74 Other provisions of compliance agreements not affected

The provision of compliance agreements mentioned in this Division are in addition to any other provision of the agreement."

Example of the development of an Import Clearance Compliance Agreement - Quarantine

An example of the development of an Import Clearance Compliance Agreement is presented in the work plan for a pilot pre-clearance program for Californian citrus – February 2005 (available at the AQIS website)[51]. The document defines the operational requirements, responsibilities, requests for pre-clearance inspection, nomination and tracking of inspection lots, inspection location, product identification records, storage, AQIS/APHIS inspection, product verification, phytosanitary certification, non-compliance and program review.

Import Clearance Compliance Agreement – Imported Food

Section 35A of the *Imported Food Control Act 1992* (Cth) establishes compliance agreement and Regulations 31 and 32 of the *Imported Food Control Regulation 1993* (Cth) define the administrative operations associated with foreign government and quality assurance certification. Expanded below are several Regulations relevant to the administration of quarantine compliance agreements. Specifically:

"31 How does the holding of a foreign government or quality assurance certificate affect the incidence of inspection, of food?

The incidence of inspection of food may be varied if:
(a) the owner of the food produces to an authorised officer a recognised foreign government certificate or a recognised quality assurance certificate in relation to the food; and
(b) there is no reason to doubt the authenticity of the certificate."

"32 How is the reliability of foreign government or quality assurance certificates verified?

The reliability of a recognised foreign government certificate or a recognised quality assurance certificate may be verified by:
(a) drawing consignments for sampling at a rate that is not less than 5% of the total consignments certified by:
(i) in relation to a recognised foreign government certificate — an instrumentality of the foreign government under subsection 18 (1) of the Act; or
(ii) in relation to a recognised quality assurance certificate — exported by an overseas processing operation approved under subsection 19 (1) of the Act; and
(b) auditing the system operated by the foreign government instrumentality or the approved overseas processing operation concerned; and
(c) conducting documentation checks by requiring the foreign government instrumentality concerned to verify selected certificates collected upon arrival in Australia."

Comment

The use of foreign government certification or quality assurance arrangements are primarily entered into with respect to Risk Category Food as Regulation 32 of the *Imported Food Control Regulation 1993* (Cth) prevents drawing samples from less than 5% of the total consignments certified.

Random Surveillance Category Food has an inspection rate of 5% and entering into an arrangement should not reduce the inspection rate.

[51] Work plan for a pilot pre-clearance program for Californian citrus. DAFF, 1 February 2005.

Quality Assurance Arrangements

Quality Assurance (QA) Arrangements - Guidelines for the Imported Food Program[52] - is a document that has been prepared to set the standard requirements for a Quality Assurance (QA) arrangement between AQIS a company producing food products for import into Australia.

The document is available from the AQIS Imported Food website.

The document is divided into two sections, general requirements and specific quality system requirements.

General Requirements of the Quality Assurance Arrangements

The Quality Assurance (QA) Arrangements - Guidelines for the Imported Food Program - define a QA arrangement as[53]:

"….an arrangement between AQIS and a company, that has implemented an effective quality assurance system, which ensures that the food products which the company produces meets the requirements of the *Imported Food Control Act 1992* (Cth) and the Food Standards Code. AQIS involvement in the clearance of the products changes from that of inspection on arrival to Australia to the monitoring of the company's quality system to ensure that the product meets the requirements before leaving the producer's establishment, and therefore the exporting country.

AQIS delegates the monitoring of the effectiveness of a company's quality system to Third Party Certifying Bodies (TPCBs) which are accredited by a Third Party Accreditation Body such as the Joint Accreditation System of Australia and New Zealand (JAS-ANZ). TPCBs are then responsible for auditing companies systems for compliance with AQIS requirements."

"The requirements for a company to enter into a QA arrangement with AQIS are:
- ISO 9001 or ISO 9002 certification by suitable TPCB;
- Use Hazard Analysis Critical Control Point (HACCP) system to analyse production processes; and
- Address relevant CODEX Codes of Practice."

"The TPCB which certifies the company's system MUST be accredited by a Third Party Accreditation Body such as the Joint Accreditation System of Australia New Zealand (JAS-ANZ). This gives AQIS the assurance that the accreditation system will meet Australian requirements"

Specific Quality System Requirements for the Quality Assurance Arrangements

The specific quality system requirements are covered under six headings, including declaration by chief executive, schedule of products, export documentation, product recall, process control and inspection and testing[54].

[52] Quality Assurance (QA) Arrangements – Guidelines for the Imported Food Program, IFP-01. AQIS Canberra. 14 February 2000.
[53] Quality Assurance (QA) Arrangements – Guidelines for the Imported Food Program, p5, IFP-01. AQIS Canberra. 14 February 2000.

Of particular note under the hazard analysis subheadings is the following statement[55]:

"Note: The concept of HACCP was originally derived to identify points in a process where there is a potential risk to public health from microbiological activity. AQIS has extended the scope of HACCP to cover identification of points where there is a risk of compromising the QA arrangement, for example, from a legislative viewpoint, or where the integrity of the arrangement could be jeopardised; in summary where there is any risk to product quality."

Comment

No information was publicly available describing the process that the Imported Food Program utilises to facilitate whether '….*there is a risk of compromising the QA arrangement, for example, from a legislative viewpoint*….'

There is sufficient publicly available information demonstrating that the Imported Food Program does not check all foods selected for inspection for 'absolute compliance' with the Code[56] – which is the legislative requirement and national standard as defined by Section 3(1) of the *Imported Food Control Act 1992* (Cth).

It is conceivable that the Imported Food Program will enter into compliance agreements that are consistent with the analytical requirements of 'Risk Category Food' and 'Active Surveillance Category Food' as outlined in Appendix 1, 2 and 4 of this report. However, these requirements are not consistent with the absolute requirements of the Code[57].

Conclusion

AQIS has operational responsibilities for quarantine that include ensuring border quarantine security, issuing import permits and providing export health certification.

AQIS and FSANZ have joint responsibility for regulating the safety of food imports.

AQIS is responsible for providing operational services at the border to carry out the necessary inspections, verifications and tests in line with FSANZ's advice.

AQIS carries out its responsibilities for imported food through the Imported Food Inspection Scheme. The operational component of the Scheme is the Imported Food Program.

As an alternative to routine inspection, AQIS has the capacity to enter into agreements with foreign governments or individual entities with appropriate quality assurance arrangements.

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[54] Quality Assurance (QA) Arrangements – Guidelines for the Imported Food Program, p11-16, IFP-01. AQIS Canberra. 14 February 2000.
[55] Quality Assurance (QA) Arrangements – Guidelines for the Imported Food Program, p14, IFP-01. AQIS Canberra. 14 February 2000.
[56] Australia Food and Agricultural Import Regulations and Standards – Country Report 2001. p11. GAIN Report #AS1024 USDA (Last updated July 2001).
[57] *Australia New Zealand Food Standards Code* (Cth). FSANZ, Canberra – Std 1.1.1.

Chapter 6 - Implementation of Food Regulation in Australia

Introduction

Food regulation in Australia is based on achieving consistent outcomes. In the context of implementation of food regulation, the outcome that industry is seeking is a consistent experience of regulation as it impacts on businesses across jurisdictions.

In an effort to address these concerns, the Food Standards Implementation Sub-Committee has written '*A strategy for consistent implementation of food regulation in Australia'* which was endorsed by the Food Regulation Standing Committee in August 2005 and the Australia and New Zealand Food Regulation Ministerial Council in October 2005. The report outlines a strategy aimed at achieving a consistent approach to the way regulations and standards are interpreted and enforced across jurisdictions, regardless of whether food is sourced from domestic producers, export registered establishments or from imports[58].

The report identified eight components for the implementation of an effective food regulatory system[59]:

- Surveillance and monitoring;
- Regulatory and compliance arrangements;
- Food safety incident response and management systems;
- Coordinated food regulation between agencies and local government;
- Investigation, enforcement, corrective actions, sanctions and prosecutions;
- Food industry support and education;
- Consumer education; and
- Reporting.

Development of Food Regulation on Food Manufactured in Australia

There are three distinct components associated with the development of food regulation in Australia.

Implementation

Implementation of the food regulation system spans three levels of government (local, state/territory and commonwealth governments) and several portfolios (principally health and primary industries) and covers the full spectrum of activities once a food standard or regulation comes into force. It includes interpretation, compliance, audit, verification, inspection and enforcement, as well as industry support schemes, emergency management, monitoring and surveillance and risk communication[60].

[58] "A strategy for consistent implementation of food regulation in Australia". This policy paper was endorsed by the Australia and New Zealand Food Regulation Ministerial Council, October 2005.
[59] "A strategy for consistent implementation of food regulation in Australia". p3. This policy paper was endorsed by the Australia and New Zealand Food Regulation Ministerial Council, October 2005.
[60] "A strategy for consistent implementation of food regulation in Australia". p5. This policy paper was endorsed by the Australia and New Zealand Food Regulation Ministerial Council, October 2005.

Enforcement

A baseline or statement of status of the Australian arrangements in place prior to December 2003 identified that, though there were implementation systems in place within each jurisdiction and agency including for exports, there was an absence of an integrated nation-wide system for the implementation and enforcement of the Code[61]. Food regulation for all foods produced in Australia should be enforced by the State and Territory jurisdictions.

Food surveillance

Regular monitoring of the food supply for labelling, food composition, pesticide residues, contaminants, nutrients, additives and other substances is conducted in both Australia and New Zealand. In Australia, this monitoring is conducted by a number of Federal and State government agencies, including FSANZ, and industry.

Australian Total Diet Study

The Australian Total Diet Study (ATDS) (previously named the Australian Market Basket Survey) aims to estimate the level of dietary exposure to pesticide residues, contaminants and other substances in the overall Australian diet, including both locally produced and imported foods which are prepared in a 'table ready' form[62].

Comment

Past studies have consistently shown that Australian dietary exposures to pesticide residues and contaminants are well below Australian or international reference health standards and do not represent a public health risk[63].

Therefore the scope of the most recent ATDS (21st study) was changed[64]. In this and future studies, subsets of a broader range of chemicals found in food, including additives and nutrients, will be examined.

Pesticide residues and contaminants were not monitored in the 21st ATDS.

National Residue Survey and Imported Food Program

The Commonwealth Government through the Department of Agriculture, Fisheries and Forestry – Australia, conducts two further programs that collect information on the levels of pesticide residues, contaminants and other substances in food:

- The National Residue Survey (NRS[65]); and
- The Imported Food Program[66]

[61] "A strategy for consistent implementation of food regulation in Australia". p6. This policy paper was endorsed by the Australia and New Zealand Food Regulation Ministerial Council, October 2005.
[62] The 20th Australian Total Diet Survey. A total diet survey of pesticide residues and contaminants. FSANZ Canberra. http://www.foodstandards.gov.au/_srcfiles/Final_20th_Total_Diet_Survey.pdf
[63] http://www.foodstandards.gov.au/newsroom/publications/21staustraliantotald2963.cfm
[64] The 21st Australian Total Diet Study. A total diet study of sulphites, benzoates and sorbates. FSANZ Canberra. http://www.foodstandards.gov.au/_srcfiles/21st%20ATD%20Study%20report-Aug051.pdf
[65] http://www.affa.gov.au/content/output.cfm?ObjectID=D2C48F86-BA1A-11A1-A2200060B0A05746&contType=outputs
[66] http://www.foodstandards.gov.au/newsroom/factsheets/factsheets2001/importedfoodsprogram.cfm

The main aim of these programs is to monitor pesticide residues and contaminants and other substances in food commodities in export food and in imported food respectively.

Analyses - NRS

Chemical-commodity combinations reported by the NRS are selected on the basis of risk profiles. Those combinations of highest risk are identified for inclusion in NRS residue monitoring projects. Further information relating to developing risk profiles for chemical-commodity selections is presented in the NRS Annual Report 2004-2005, available at the NRS website[67].

Comment

The NRS 2004-2005 collected horticultural samples from the following commodities: apples and pears, macadamia nuts, onion and blueberry. A total of 573 samples were collected. Residues of a number of crop protection chemicals were detected in apples, blueberries and pears. All but one were within Australian Standards[68].

Analyses – Imported Food Program

FSANZ is responsible for conducting the risk assessment of imported foods and advising AQIS of the inspection requirements applied to imported foods[69].

State and Territory Authorities

State and Territory health and agriculture authorities carry out surveys of specific contaminants, pesticide residues or other substances. These surveys usually investigate specific concerns and determine whether primary producers are complying with the law. They are a valuable source of supplementary information on the contaminant, pesticide residue and other substance status of foods[70].

Industry-based food surveillance

In addition to government mandated food surveillance testing, there are several industry-based schemes such as the Australian Milk Residue Analysis Survey[71] and FreshTest Australia Program[72] that provide independent monitoring programs for agricultural and veterinary residues and environmental contaminants in food commodities. Residues detected in these surveys are reported against the Australian Maximum Residue Limits (MRLs).

[67] National Residue Survey Annual Report 2004-2005. NRS Canberra. http://www.affa.gov.au/corporate_docs/publications/pdf/animalplanthealth/nrs/nrs_ann_report_04_05.pdf
[68] National Residue Survey Annual Report 2004-2005. NRS Canberra. p130. http://www.affa.gov.au/corporate_docs/publications/pdf/animalplanthealth/nrs/nrs_ann_report_04_05.pdf
[69] http://www.foodstandards.gov.au/newsroom/factsheets/factsheets2001/importedfoodsprogram.cfm
[70] http://www.foodstandards.gov.au/monitoringandsurveillance/foodsurveillance.cfm
[71] http://www.dairysafe.vic.gov.au/products.htm
[72] Fresh Source. Newsletter of the Brisbane Markets Limited. p10. http://www.brisbanemarkets.com.au/files/BMA%20Fresh%20Source%20June%20Web.pdf. June 2004.

Comment

Industry–based food surveillance schemes are increasingly being used to facilitate market access and quality assurance requirements associated with the supply of primary produce.

Food Surveillance Newsletter

The results of food surveys conducted by various government agencies are often published in *Food Surveillance Newsletter* available from the FSANZ website.

Recently published surveys relevant to horticultural produce include:

- FSANZ Food Label Monitoring Survey,
- Food Colours – A survey of artificial colours in foods and beverages,
- Microbiological survey of freshly squeezed juices from retail businesses across Victoria,
- Monitoring pesticide and cadmium residues in fresh fruit and vegetables 2000-2001 and 2002-2003,
- Testing fresh produce for chemical residues in Victoria,
- Weekend Produce Markets around Adelaide – A survey of Horticultural Produce for Chemical Residues,
- Microbiological Survey – Sesame Seeds and Sesame Seed Products,
- Microbiological safety and quality of sprouts in Western Australia,
- Pooraka Food Care Project – Pesticide residue monitoring of fresh produce in South Australia,
- Accuracy of Nutrition Information Panels 2000-2002 – A survey by the West Australian Food Monitoring Program,
- Benzoates, sulphites and sorbates in the food supply – Report of the 21st Australian Total Diet Survey, and the
- AQIS Imported Food Surveys – Report 1 – Imported Horticultural Products.

Examples of non-compliance include:

Significant non-compliance has been observed against the Code with respect to food labels.

The Food Standards Australia New Zealand (FSANZ) Label Monitoring Survey was initiated with the intention of developing an ongoing monitoring system for food labels. The aims of the sampling plan were to obtain the labels of all retail packaged food products available in Australia and New Zealand, and to select labels which were representative of all food products and brand types. There are very high levels of non-compliance associated with food labels on food manufactured in Australia and New Zealand, particularly associated with the nutritional information panel (100% non-compliance of 1063 labels reviewed) [73].

The West Australian Food Monitoring Program reviewed 142 products for the accuracy of nutrition information panels (NIP). The survey examined products specifically making claims of low (reduced) fat, low salt, high carbohydrates or no claim – but still carried a NIP to compare results against. The majority of results were within 25% of label declarations across all characteristics, however the levels of inaccuracies are significant, particularly in products claiming 'low fat '. In

[73]Food Label Monitoring Survey. July 2002-December 2003. Phase 1 Pilot Report (incorporating Stages 1 and 2). Report by Silliker Microtech Pty Ltd, prepared for FSANZ, Canberra, August 2004

the case of 'low fat' claims only 41% of samples tested were within 25% deviation of the stated value[74].

Microbiological surveys have identified numerous microbiologically hazardous food products on the market.

In Australia and overseas, sesame seeds and sesame seed products (tahini, halva, hummus and baba ghanouj) have been linked with outbreaks of foodborne illness, mainly due to contamination with *Salmonella*. Most of the products implicated in recalls and foodborne illness in Australia were produced in Middle Eastern countries. Domestic testing of sesame products over the last 20 years has resulted in the detection of salmonellae on numerous occasions.

Victorian, Tasmanian, Queensland, South Australian and New South Wales health agencies collected samples during the first two weeks in May 2004. A total of 40 samples, approximately half domestic and half imported, were collected and tested. To investigate whether the current food sampling regime was sufficiently sensitive, 5 sub-samples of product within the same lot code (minimum weight of 25 g) were taken for each sample.

Types of sesame seed products sampled included sesame seeds, tahini, halva, hummus and baba ghanouj. Canned products were not sampled, as they were likely to be sterile. Samples were selected from a range of outlets including wholesalers, supermarkets, fast-food outlets/restaurants and grocers/delis. Product details were recorded to allow trace-back, if necessary.

The survey of sesame seeds and sesame seed products resulted in *Salmonella* detection in one (imported white sesame seeds) of the 40 samples analysed. The sample was identified as being positive for *Salmonella* Richmond[75].

There have been increasing numbers of food poisoning outbreaks associated with the consumption of sprouted seeds like alfalfa, radish, mung bean, and clover sprouts. Literature and epidemiological investigation into food poisoning outbreaks in United States, United Kingdom, Sweden, Finland, Japan, Denmark and Canada have identified sprouts as a potential problem food.

Sprouts present special problems because of the potential for pathogen contamination and survival on seed stock and the rapid growth of microorganisms during the sprouting process. Research has demonstrated that Salmonella species can survive for several months on alfalfa sprouts.

The Health Department of Western Australia coordinated a major survey of the sprouts industry in Western Australia between January and March 2000. Two hundred and sixty-one (261) sprout samples were tested for microbiological quality and all samples were considered for crude microbiological assessments. This survey did not isolate pathogens at levels of public health significance. However, one sample had *Salmonella* and *Listeria monocytogenes* was recovered from 8 samples at levels of less than 5 per gram[76].

A microbiological survey of fresh squeezed juices from retail businesses that squeeze juices on request was conducted across Victoria. Two hundred and ninety one juice samples were analysed for *Salmonella* species, *Escherichia coli*, *Listeria monocytogenes* and coagulase positive staphylococci. *Salmonella* was not detected in any juice samples. However *E. coli* was detected in

[74] Accuracy of nutrition information panels 2000-2002. West Australian Food Monitoring Program. WA Dept of Health. August 2005.
[75] http://www.foodstandards.gov.au/newsroom/foodsurveillancenewsletter/autumnwinter2005.cfm
[76] http://www.foodstandards.gov.au/newsroom/foodsurveillancenewsletter/surveyspecialsummer21336.cfm

seven juice samples, two of which had levels greater than 100cfu/ml (cfu – colony forming units). *Listeria* spp were detected in nine juice samples; *Listeria monocytogenes* was detected in one of these samples at a level of 25,000cfu/ml and was assessed as potentially hazardous. All juice samples analysed for coagulase positive staphylococci contained less than 100cfu and were assessed as satisfactory[77].

Presence of chemical residues in horticultural produce

NSW Agriculture has compiled a report on the results of the pesticide residue and cadmium-monitoring program in horticultural commodities distributed through the Sydney Markets from November 2000 to June 2001. An interim report for the 2002-03 survey period has also just been completed for samples collected between February 2002 and January 2003. Fruit and vegetable samples from all states are included in these surveys.

NSW Agriculture and Sydney Markets Limited (SML) have funded the Pesticide Residue Survey since its inception in 1989. Between 1989 and 2000, more than 97% of all samples met the MRL standard (98.3% in 1989-92, 98.4% in 1992-95, 98.1% in 1995-96 and 95.3% in 1997-00).

The 2000-01 report discusses the results of the pesticide residue and cadmium-monitoring programs in horticultural commodities distributed through the Sydney Markets from November 2000 to June 2001. Some 336 samples, comprising 44 different fresh fruit and vegetables, were purchased from Sydney Markets between November 2000 and June 2001. The samples were analysed for residues of 26 pesticides with some samples also tested for the heavy metal, cadmium. Pesticide residues were either absent or complied with the Maximum Residue Limit (MRL) in 97.6% of samples. Only eight samples (2.4%) contained pesticide residues that exceeded the MRL, with another seven samples with residues between 50% and 100% MRL. Of the 37 samples analysed for the heavy metal cadmium, none were above the Maximum Permitted Concentration (MPC) for cadmium. This shows a further decline from the 1997-00 data of 1.1%.

The results for the 2002 survey, which tested 500 samples between February 2002 and January 2003, showed that pesticide residues were either absent or complied with the MRL in 98.6% of samples. Only seven samples (1.4%) contained pesticide residues which exceeded the MRL, with another three samples with residues between 50 and 100% MRL. Of the 72 samples analysed for the heavy metal cadmium, one was above the MPC for cadmium[78,79].

Since 1987 the Victorian government, through the Department of Department of Primary Industry (formally Department of Natural Resources and the Environment) has been running an annual residue testing program for chemicals and other contaminants in Victorian grown produce. The program is called the Victorian Produce Monitoring Program (VPMP), and aims to ensure that the application of agricultural chemicals to agricultural produce is appropriate, and meets national food safety standards. This program is targeted towards areas of perceived higher risk of contamination and is designed to assess produce and chemical combinations that may be of concern.

Survey results consistently find that Victorian produce meets stringent national standards for contaminants (or Maximum Residue Limits) that are set by FSANZ. Victorian results are comparable to those produced by similar national and international residue-testing programs. For

[77] Microbiological survey of freshly squeezed juices from retail businesses across Victoria. Dept of Human Services Victoria. August 2005.
[78] http://www.foodstandards.gov.au/newsroom/foodsurveillancenewsletter/autumnwinter2003.cfm#_Monitor
[79] http://www.agric.nsw.gov.au/reader/15234

example, the results from the 2000/2001 Victorian residue-monitoring programs found that of the 847 samples taken, 99% met the acceptable standards[80,81].

The Food Section of the South Australian Department of Human Services (DHS) participated in a program that tested a large number of fresh fruits and vegetables that are sold from supermarkets and greengrocers for residues of agricultural chemicals such as pesticides and fungicides. The results show that most fresh produce from conventional retail outlets is free of residues or has low levels well within safe limits. Each sample was screened for 85 chemicals, including pesticides, herbicides, and fungicides. All residues detected were well within the limits listed in the Food Standards Code[82,83].

The Pooraka Food Care Project combines the joint expertise of Primary Industries and Resources South Australia (PIRSA), the Adelaide Produce Markets Ltd (APML) and the Department of Human Services (DHS) in a program of pesticide monitoring of fresh produce from the wholesale fruit and vegetable market at Pooraka, South Australia. The Pooraka Market is the major wholesale market supplying fresh produce to the majority of metropolitan and regional areas in South Australia. The project commenced in March 1998 and incorporates a survey over a twelve-month period of pesticide residues in a large range of fresh fruit and vegetables grown in SA and sold at the Pooraka Market[84,85].

The third year of the project was completed in July 2001. During the third year, August 2000 to July 2001, a total of 139 samples were taken for analysis and each sample was tested for 72 pesticides (compared to 38 pesticides the previous year).
• 98.9% of vegetable samples (99.98 of the total tests) had no detectable residues or contained pesticide residues less than the Maximum Residue Limit (MRL).
• 98.0% of fruit samples (99.97% of the total tests) had no detectable residues or contained residues less than the MRL.

A survey conducted by the Imported Food Program to address concerns that imported horticultural may be contaminated with chemical residues or pathogenic bacteria tested for a screen of 139 chemical residues and found one (1) breach of Standard 1.4.2 – Maximum Residue Limits (the Code) from a sample size of 50 imported horticultural products[86].

Concerns regarding chemical preservatives added to food

The Australian Total Diet Study (ATDS), formerly known as the Australian Market Basket Survey, is Australia's most comprehensive assessment of consumers' dietary exposure (intake) to a range of food chemicals including food additives, nutrients, pesticide residues, contaminants and other substances. The survey has been conducted approximately every two years.

The 21st ATDS estimates the dietary exposure of the Australian population to specific food additives, namely sulphites, benzoates and sorbates. Representative foods believed to contain these

[80] http://www.foodstandards.gov.au/newsroom/foodsurveillancenewsletter/autumnwinter2003.cfm#_Monitor
[81] http://www.dpi.vic.gov.au/dpi/nrenfa.nsf/childdocs/-DA7B09A643F323EDCA256E7500202EB8-AEEB5FB62273660ACA256E75007F85EE-A99EEDDADACC70F8CA256C38001965CA?open
[82] http://www.foodstandards.gov.au/newsroom/foodsurveillancenewsletter/spring2003.cfm
[83] Weekend Produce Markets. A survey of horticultural produce for chemical residues. Dept of Health SA. October 2003. http://www.health.sa.gov.au/pehs/Food/survey-weekend-markets-oct03.pdf
[84] Pooraka Food Care Project. Report for the Third Year. PIRSA/Dept of Health SA. Adelaide. http://www.safoodcentre.com/facts/files/links/link_752_2.pdf
[85] http://www.foodstandards.gov.au/_srcfiles/FSNOV02final.pdf
[86] Report 1 – Imported Horticultural Products. P5. AQIS Imported Food Surveys. AQIS Canberra

preservatives were sampled and prepared to a 'table ready' state before analysis, in order to provide realistic estimates of the amounts of the preservatives in the food as consumed.

The report provided evidence of sulphites in dried apricots at levels that may violate the provisions as set out in Standard 1.3.1 – Food Additives of the Code (3000mg/kg)[87].

The Food Section of the South Australian Department of Health has completed a survey looking at artificial food colours in 245 samples of processed food and beverages across 18 different food categories. Food groups included were confectionery, soft drink, cordial, flavoured milks, yoghurt, ice confection, ice cream, fruit drinks, jelly crystals, cheese, biscuits, cakes, margarines/spreads, frozen oven fries, meat/chicken/vegetable pies, extruded snacks, extruded breakfast cereals, toppings, spirits/liqueurs and jam.

The survey demonstrated that 97% of samples met the requirements of the Food Standards Code[88]. Food colours were found at violative levels in a strawberry flavoured topping and a food additive (colour) was not declared in a strawberry topping, excess colour was identified in an orange and banana liqueur, and three jelly products contained undeclared food colours[89].

Comment

The surveys presented in *Food Surveillance Newsletter* are generally 'snapshots' of a particular topic and at best provide very limited assurance of compliance. Some of these surveys have indicated that:

- Significant non-compliance has been observed against the Code with respect to food labels.
- Microbiological surveys have identified numerous microbiologically hazardous food products on the market.
- Limited non-compliance has been observed for the presence of chemical residues in horticultural produce – the significance of these results for compliance with the requirements of Standard 1.4.2 - Maximum Residue Limits - is difficult to determine as many of the residue screens applied vary significantly from the requirement of the Code.
- Some concerns have been identified with the presence of sulphites, benzoates and sorbates in the diet.

Implementation of Food Regulation on Imported Food

Introduction

AQIS imported food inspectors check imported food against the requirements of the Code.

FSANZ is responsible for conducting the risk assessment of imported foods and advising AQIS of the inspection requirements applied to imported foods. Largely the testing requirements applied on

[87] The 21st Australian Total Diet Study. A total diet study of sulphites, benzoates and sorbates. p59. FSANZ Canberra. http://www.foodstandards.gov.au/_srcfiles/21st%20ATD%20Study%20report-Aug051.pdf
[88] http://www.foodstandards.gov.au/newsroom/foodsurveillancenewsletter/springsummer2005/index.cfm#_colours
[89] Food colours. A survey of artificial food colours in foods and beverages. Department of Health SA. June 2005. http://www.dh.sa.gov.au/pehs/Food/report-food-colours-nov05.pdf

imported food have been developed to assure public health and safety and do not rigorously reflect the 'absolute compliance' requirements of the Code[90].

An editorial note in the Code notes that it is an offence under State and Territory and Commonwealth legislation for food not to comply with a prescribed standard where a prescribed standard has been established for that food. The Code establishes that 'prescribed standard'[91].

For the purposes of determining compliance of a food with the Code, the Imported Food Program generally uses either visual inspection or alternatively visual inspection and laboratory analyses.

Visual inspection - Imported Food Program

Inspectors examine all referred food for labelling compliance and perform a visual inspection of the food. The visual inspection involves examining the package for defects and, where necessary, opening the packages to look for any contamination.

Labelling inspections are performed to ensure that the label[92]:

- is in English,
- has the correct name or commercial description of the food which in some cases includes names prescribed by the Code,
- has importer details,
- has the country of origin declared,
- has lot identification (lot codes and details of the manufacturer),
- has use by dates (in the correct format),
- has a statement of ingredients (as required),
- does not contain prohibited statements or claims, and
- where required, has advisory statements or mandatory warning statements.

General food labelling requirements – the Code

In most circumstances foods for retail sale or for catering purposes are required to bear a label setting out all the information prescribed in the Code.

The label on a package of food for retail sale or for catering purposes generally must include the following core information[93]:

1. **Prescribed name** or, where no name is prescribed, a name or a description of the food sufficient to indicate the true nature of the food.
2. Lot identification.
3. Name and business address in Australia or New Zealand of the supplier.
4. **Mandatory warning and advisory statements and declarations** specified in Standard 1.2.3 and any other warning and advisory statements specified elsewhere in the new Code.
5. Ingredient listing.
6. Date marking.

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[90] Australia Food and Agricultural Import Regulations and Standards – Country Report 2001. p11. GAIN Report #AS1024 USDA (Last updated July 2001).
[91] *Australia New Zealand Food Standards Code* (Cth). FSANZ, Canberra – Std 1.1.1.
[92] Important Facts About Importing Food Into Australia, Imported Food Inspection Scheme, AQIS, Canberra, 24 March 2004.
[93] Overview of food labelling – User guide to food labelling and other information requirements. ANZFA, Canberra Australia, July 2001.

7. Nutrition information panel.
8. Percentage labelling (characterising ingredient/s and component/s).
9. Directions for use or storage where, for reasons of public health and safety, consumers need appropriate directions for use or storage of the food.
10. Country of origin must be stated on products made and sold in Australia, other than food products from New Zealand.

There are some circumstances where a food is exempt from these labelling requirements.

In addition to those core information requirements, there are the following labeling requirements:
 Health claims. See clause 1 of Standard 1.1.3.
 Nutrition claims. See division 3 of Standard 1.2.8.
 Labelling in relation to the vitamin and mineral content. See Standard 1.3.2.
 Labelling of irradiated food or food containing ingredients that have been irradiated. See Standard 1.5.3.
 Legibility. See Standard 1.2.9.
 Novel foods. See Standard 1.5.1.

Comment

The above labelling elements used by the Imported Food Program to assess compliance of a food are not a rigorous application of the general and specific food labelling requirements of the Code.

Specific information relating to the general and specific labelling requirements of food can be found in the Code.

Laboratory Analyses

At the time of the inspection, the officer may take samples for laboratory analysis to determine where required, the food's microbiological status, levels of any pesticide residues, the correct use of additives and the food's composition.

Imported Food Notices 43/04, 44/04 and 45/04 (Appendices 1-3 in this report) outline the laboratory tests that are generally used by the Imported Food Program to assess the compliance of particular imported horticultural foods.

In most cases, the Imported Food Program uses analyses consistent with addressing risk to public health and safety. The analyses identified have limited relevance to ascertaining whether a product demonstrates compliance with the Code.

An example is the use by the Imported Food Program of a generic 'pesticide' screen (Appendix 7 – New Pesticide Screen) that analyses for a limited number of chemical residues. In general, the pesticide screen used by the Imported Food Program will adequately address the risks posed to public health and safety from agricultural residues present on food. It is, however, incorrect to assume that a food passing the Imported Food Program 'pesticide screen' by implication actually complies with the requirements of Standard 1.4.2 – Maximum Residue Limits.

Examples of the complexity of pesticide residue monitoring of selected horticultural produce necessary to comply with the requirements of Standard 1.4.2 – Maximum Residue Limits are provided in Appendices 10-12.

An extension to the list of chemicals screened by the Imported Food Program is most likely to increase the level of non-compliance identified in imported produce without necessarily delivering any measurable public health and safety outcome.

Where an authorised officer has reasonable grounds to believe that a food may not comply with the requirements of the Code or may pose a risk to human health, additional appropriate tests may be applied after consultation with their Food Safety Manager or on advice from the Food Safety Unit, Canberra.

Comment

The laboratory analyses outlined in Imported Food Notices 43/04, 44/04 and 45/04 (Appendices 1-3 in this report) associated with imported horticultural produce is not a rigorous application of the current Code and is at very best providing a limited assurance of compliance of a food with the Code, when compared with compliance requirements of specified horticultural produce as listed in Appendices 10-12 of this report.

Sampling

Referral of food to the Imported Food Inspection Scheme

Regulation 14 of the *Imported Food Control Regulations 1993* (Cth) defines the rate at which food is referred by Customs for inspection under the Imported Food Inspection Scheme. Specifically:

"Regulation 14 - At what rate must food be referred for inspection?

> (1) All food classified as risk food must be referred by the Australian Customs Service for inspection under the Scheme.
> (2) Ten per cent of consignments of food of a particular kind:
> (a) that is imported from a particular country; and
> (b) that is classified as active surveillance food;
> must be referred by the Australian Customs Service for inspection under the Scheme.
> (3) Five per cent of consignments of food classified as random surveillance food must be referred by the Australian Customs Service for inspection under the Scheme."

Rate of inspection of food by the Imported Food Inspection Scheme

Regulation 15 of the *Imported Food Control Regulations 1993* (Cth) further clarifies the rate of inspection of imported food. Specifically:

"Regulation 15 - What is the rate of inspection for risk food?

> All food classified as risk food is subject to 1 of the following rates of inspection:
> (a) tightened — under which each consignment from a particular source is inspected;
> (b) normal — under which 25% of consignments from a particular source are selected randomly for inspection;
> (c) reduced — under which 5% of consignments from a particular source are selected randomly for inspection."

Comment

All Risk Category Food (defined as having 'the potential to pose a high or medium risk to public health'[94]) must be referred by Customs to the Imported Food Inspection Scheme for clearance. Notwithstanding, the Scheme has considerable scope to determine the rate of inspection for Risk Category Food.

Sampling procedures for the Imported Food Inspection Scheme

Regulation 22 and Schedule 1 of the *Imported Food Control Regulations 1993* (Cth) define the rate at which samples must be taken by the Imported Food Inspection Scheme. Specifically:

"Regulation 22 - What sampling procedures are followed in inspection of food?

> (1) Food that is referred for inspection under the Scheme may be inspected by inspecting randomly selected samples of the food.
> (2) The rate at which samples must be taken for inspection from food of each classification referred to in regulation 8 is as set out in Schedule 1."

An abstract of Schedule 1 is attached as Appendix 8 - Selection of sampling. The sampling selection requirements outlined in the Schedule provide for many scenarios.

The box below describes the level of sampling for a risk food, the consignment imported as lots, assuming 50 lots in the batch, at the reduced rate of testing.

Comment

Inspection rate of 'Risk Category Food' – see Appendix 8

Determination of the inspection rate for a Risk Category Food can be quite complex and takes into account a number of factors. Below is an example of how complex this determination may be.

Referral rate - Reduced rate of inspection – 5% (0.05)
Selection of samples - Sampling rate assuming 50 lots – 3 samples (1 sample from 6% of all sampled lots)
Inspection rate = inspection rate x sampling rate = 0.05 x 0.06 = 0.003

Therefore, it is entirely plausible that the Imported Food Inspection Scheme will take samples from 0.3% of all Risk Category Food lots imported into Australia.

Interestingly, active and random surveillance category foods are not capable of accessing the 'reduced' testing rate in as outlined in Appendix 8 – Selection of sampling - Table 2 – Risk food at reduced rate of inspection.

Paradoxically it is quite possible that both active and random surveillance category foods may actually be exposed to 'higher' testing levels than a risk food analysed at the reduced testing rate.

[94] Regulation 9 – What is meant by *risk* food? – *Imported Food Control Regulations 1993* (Cth)

Food Safety Standards

No information was identified on the public record describing the generic approach used by the Imported Food Inspection Scheme to ensure the compliance of imported food with the entire Chapter 3 – Food Safety Standards – of the Code.

Comment

Provisions for 'Government to Government' and Quality Assurance Certification Programs outlined in the *Imported Food Control Act 1992* (Cth) and *Imported Food Control Regulations 1993* (Cth) may contain some of the requirements for Chapter 3. How these requirements are reviewed and enforced is likely to be largely through desk audits of the nominated systems.

There is no publicly available information regarding the process that AQIS's Imported Food Program assesses either equivalence or 'absolute compliance' with the requirements of Chapter 3 – Food Safety Standards.

AQIS Imported Food Program Results

AQIS reports the results of the Imported Food Program in *Food Surveillance Newsletter*, available from the FSANZ website. The most recent results were for the 3rd and 4th quarter of 2003 and were published in Autumn/Winter 2005 edition of the newsletter.

3rd quarter 2003 results

During the period 1 July 2003 to 30 September 2003, 29 990 tests were conducted on selected imported foods. Of these tests only 574 failed tests (1.9%) were recorded.

It was found that the majority of non-compliance was for labelling failures (76.5%).

This equates to 440 products (approximately 1.5%) of all product tested failing for labelling reasons.

Comment

The labelling elements used by the Imported Food Program to assess compliance of food with the Code[95] are not a rigorous application of the current requirements of the Code[96].

Therefore, it is likely that the results reported by the Imported Food Program associated with labelling represent a significant under reporting of the compliance of food with the labelling and information requirements of the Code.

It is worth noting that there are very high levels of non-compliance associated with food labels on food manufactured in Australia and New Zealand, particularly associated with the nutritional information panel (100% non-compliance of 1063 labels reviewed)[97].

[95] Important Facts About Importing Food Into Australia, Imported Food Inspection Scheme, AQIS, Canberra, 24 March 2004.
[96] Overview of food labelling – User guide to food labelling and other information requirements. ANZFA, Canberra Australia, July 2001.

During the period 1 July 2003 to 30 September 2003, the Imported Food Program identified two (2) residue failures using – Appendix 7 – New Pesticide Screen as its measure of residue compliance. No information was available on the number of food products analysed by the pesticide screen during this period.

4th quarter 2003 results

During the period 1 October 2003 to 31 December 2003, 31 676 tests were conducted on selected imported foods. Of these tests only 417 failed the testing criteria, a majority (82.2%) for labelling failures.

During the period 1 October 2003 to 31 December 2003, the Imported Food Program identified four (4) residue failures using – Appendix 7 – New Pesticide Screen as its measure of residue compliance. No information was available on the number of food products analysed by the pesticide screen during this period.

Conclusion

Surveillance and monitoring surveys presented in *Food Surveillance Newsletter* are generally 'snapshots' of a particular topic and at best provide very limited assurance of compliance. Significant non-compliance has been observed against the Code with respect to food labels.

[97] Food Label Monitoring Survey. July 2002-December 2003. Phase 1 Pilot Report (incorporating Stages 1 and 2). Report by Silliker Microtech Pty Ltd, prepared for FSANZ, Canberra, August 2004

Chapter 7 - Implementation of Food Regulation at Retail – A Food Label Survey

Introduction

An editorial note associated with Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions (*Australia New Zealand Food Standards Code* (Code)) notes that it is an offence under State and Territory and Commonwealth legislation for food not to comply with a prescribed standard where a prescribed standard has been established for that food. This Code establishes that 'prescribed standard'.

Most food retailers, as a condition of supply, require that suppliers comply with all statutory and regulatory product safety, compositional and labelling requirements.

This chapter presents a retail based food label survey conducted to identify the level of rigor by which a retail supermarket implements these conditions of trade with particular emphasis on the food labelling standards of the Code.

Retail Food Labelling Survey

The scope of the investigation was limited to a review of food labels on products of local and imported origin.

The results obtained present a 'snapshot' of the food labelling issues associated with food products purchased from retail outlets and can not be viewed as representative of all product sourced through retail outlets.

As food labelling was the purpose of this review, fresh fruit and vegetables were not assessed in this report.

Only food labels were reviewed - no chemical analyses were conducted and the suppliers were not contacted for further information.

Therefore, the review of the food labels represents the minimum level of non-compliance associated with each product.

Forty (40) food labels, from retail supermarket Private Label and Proprietary Brands, were assessed for compliance with the Code. See Appendix 9 of this report.

All forty product labels contained a least one non-compliance.

A total of 123 non-compliances were identified across the forty product labels, including;

Nine (9) non-compliances related with Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations - and as such could conceivably be subject to recall by State and Territory authorities.

Details associated with specific product/non-compliance are not included in this report.

These results are largely consistent with retail food labelling survey results collected by FSANZ [98] - a significant difference being the presence of a number of undeclared allergens in the foods reviewed by Food Compliance Australia.

Conclusion

A retail based food label survey conducted by Food Compliance Australia on products purchased from a retail supermarket chain noted significant non-compliance against the requirements of the Code with respect to food labels regardless of origin.

[98] Food Label Monitoring Survey. July 2002-December 2003. Phase 1 Pilot Report (incorporating Stages 1 and 2). Report by Silliker Microtech Pty Ltd, prepared for FSANZ, Canberra, August 2004

Chapter 8 - Case Studies

Introduction

This chapter contains four case studies on the requirements of fresh horticultural produce. Three of the case studies identify the 'absolute' food standards and quarantine compliance requirements for the importation into Australia of the following fresh produce; garlic (China), pineapples (Thailand) and citrus (USA). The fourth case study presents the agricultural and chemical residues permitted on US sweet oranges for human consumption.

Food standards requirements

The Food Standards associated with fresh produce are largely related to permissions for the use of a number of surface treatments, bleaching and washing agents, prescriptions associated with metal and non-metal contaminants and maximum residue limits associated with the use of agricultural and veterinary chemicals.

There are considerably more Standards that relate to processed foods as demonstrated in Appendix 4 - Food Standards Code requirements for fruit and vegetables.

Quarantine compliance requirements

The ICON database was searched for the compliance requirements associated with the importation of fresh unprocessed garlic from China, pineapple from Thailand and citrus from the USA.

In all cases, ICON contained a series of generic conditions such as the requirements for an import permit, quarantine entry, phytosanitary certification, packaging, and quarantine requirements as well as treatment and storage arrangements.

Case study – Garlic (China)

The food standards and quarantine requirements for the importation of fresh garlic from China are presented in Appendix 10 – Garlic (China).

Biosecurity Australia is currently conducting import risk analysis on *Allium* (see Appendix 6 - Current status of plant Import Risk Analyses (IRAs) relevant to horticultural produce).

Case study – Pineapples (Thailand)

The food standards and quarantine requirements for the importation of fresh pineapple from Thailand are presented in Appendix 11 – Pineapple (Thailand).

Biosecurity Australia has recently completed an import risk analysis on fresh unprocessed pineapples. As a result, quarantine policy outlined in PLANT BIOSECURITY POLICY MEMORANDUM 2003/18 was implemented.

Please note that in the case of pineapples from Thailand, ICON identifies a series of specific conditions in addition to the generic conditions associated with the importation of horticultural produce.

Comment

Subsequent to the release of a generic IRA for fresh pineapples from the Philippines, Thailand, Sri Lanka and Solomon Islands, Thailand has requested modification to the policy to provide for on-shore methyl bromide fumigation at ports of entry.

The pests that are likely to be on imported pineapple fruit from these countries are similar and include sedentary pests such as scale insects and mealy bugs. Mandatory methyl bromide fumigation of fruit on-shore, with associated security arrangements, ensures that any pest risks associated with fresh pineapple fruit are mitigated in the same manner achieved by off-shore treatment. Mandatory off-shore decrowning of pineapples still applies.
In the IRA Biosecurity Australia indicated that it would consider the option of on-shore fumigation for fresh pineapple as it is essentially an equivalent measure to fumigation off-shore.

Appropriate quarantine security arrangements will address any technical concerns with this provision. These include product security, transport arrangements prior to fumigation, supervision by AQIS and approval of quarantine premises including fumigation facilities.

Case Study – Citrus (USA)

The food standards and quarantine requirements for the importation of fresh citrus from the USA are presented in Appendix 12 – Citrus (USA).

Entering "Citrus" from "United States of America" for "human consumption" resulted in twenty four (24) entries in the ICON database. To simplify this information for the purposes of this report, the quarantine components of the citrus (USA) case study was refined to focus on sweet oranges from the USA.

Please note that in the case of sweet oranges from the USA, ICON identifies a series of specific conditions in addition to the generic conditions associated with the importation of horticultural produce.

Biosecurity Australia is currently conducting import risk analysis on Citrus from Florida (see Appendix 6 - Current status of plant Import Risk Analyses (IRAs) relevant to horticultural produce).

Case study - agricultural and chemical residues approved for use on US sweet oranges

The agricultural and veterinary chemicals approved for use by the US Environmental Protection Agency for use on US sweet oranges are contained in the following:

- Appendix 13 – Tolerances established for pesticide chemicals in US sweet oranges

Data presented on approved residues for use on US sweet oranges indicates that US producers have access to a greater range of agricultural inputs for use in their farming systems. This may be due to different growing conditions associated with sweet oranges and also may reflect the size of the market.

The residues permitted on sweet oranges in the US are substantially greater in number to those permitted on citrus in Australia (Appendix 12).

Comment

It is unlikely that the Imported Food Programs routine screening programs associated with imported citrus are sufficiently sensitive to identify technical non-compliance with the Code associated with different approved residue permissions in food imported from foreign jurisdictions (compare residue lists presented in Appendix 7 and Appendix 13 of this report).

Conclusion

This chapter lists in detail the compliance hurdles associated with the quarantine and food standards requirements associated with the importation of fresh garlic from China, fresh pineapple from Thailand and fresh citrus from the USA.

The chapter also makes reference to a list of chemical residue permissions allowed on sweet oranges from the USA and noted that Australian sweet oranges have fewer chemical residue permissions.

Chapter 9 - Conclusion and Recommendations

Conclusion

The administrative process associated with the importation of food into Australia is well defined.

All food imported into Australia must, in the first instance, comply with the requirements of the *Quarantine Act 1908* (Cth) and then comply with the requirements of the *Imported Food Control Act 1992* (Cth) for matters relating to food safety. The standards that must be met under the *Imported Food Control Act 1992* (Cth) are set out in the *Australia New Zealand Food Standards Code* (Cth).

These standards also apply to food manufactured in Australia and with some exceptions for food manufactured in New Zealand.

Under the *Trans Tasman Mutual Recognition Act 1997* (TTMRA) (Cth), Active Surveillance Category and Random Surveillance Category foods imported from or via New Zealand are specifically exempted from the requirements of the *Imported Food Control Act 1992* (Cth).

There are also exemptions to quarantine regulatory oversight. The most relevant to imported horticultural produce is the exemption of 'plant products' from the requirement of rigorous quarantine control.

For imported foods that are assessed for compliance, the mechanism for verification is via risk-based analyses developed largely to ensure public health and safety. The risk-based analyses are usually subsets of the requirements of food as set out in the *Australia New Zealand Food Standards Code* (Cth). As such, the administrative processes currently set up in the Imported Food Inspection Scheme do not assure the Australian community that food imported into Australia complies with all the requirements of the *Australia New Zealand Food Standards Code* (Cth).

Similarly, surveillance and monitoring surveys on domestic and imported food observed significant non-compliance against the requirements of the *Australia New Zealand Food Standards Code* (Cth) with respect to food labels. These limited data suggest that the administrative processes currently set up in the States and Territories do not assure the Australian community that domestically purchased food complies with all the requirements of the *Australia New Zealand Food Standards Code* (Cth).

Therefore there is insufficient data of appropriate rigor to indicate the equivalence or otherwise between locally produced and imported horticultural products with all the requirements of the *Australia New Zealand Food Standards Code* (Cth).

Recommendations

HAL to investigate the significance of ‘exemptions’ for ‘equivalence’ of food imported into Australia from New Zealand as they relate to the *Trans Tasman Mutual Recognition Act 1997* (TTMRA) (Cth), *Imported Food Control Act 1992* (Cth) and the *Australia New Zealand Food Standards Code* (Cth).

HAL to investigate how the standards that must be met under the *Imported Food Control Act 1992* (Cth) and set out in the *Australia New Zealand Food Standards Code* (Cth) are enforced by the Imported Food Inspection Scheme.

HAL to investigate the significance and application of Regulation 29 *Imported Food Control Regulations 1993* for the administration of the Imported Food Inspection Scheme.

HAL to investigate compliance of Australian produced horticultural products against the requirements of the *Australia New Zealand Food Standards Code* (Cth).

HAL to assist industry with compliance with the requirements of the *Australia New Zealand Food Standards Code* (Cth) through the identification of appropriate accreditation and certification schemes.

Abbreviations

ALOP - Acceptable Level of Protection

APHIS - American Plant Health Inspection Scheme

APVMA - Australian Pesticide and Veterinary Medicines Authority

AQIS - Australian Quarantine Inspection Service

ATDS - Australian Total Diet Survey

CAR - Corrective Action Required

CCEPP - Consultative Committee on Emergency Plant Pests

CODEX - Codex Alimentarius Commission

CSIRO - Commonwealth Scientific and Industrial Research Organisation

Customs - Australian Customs Service

DAFF - Department of Agriculture Fisheries and Forestry

DQMAWG - Domestic Quarantine Market Access Working Group

EHO - Environmental Health Officers

EPP - Emergency Plant Pest

FRSC - Food Regulation Standing Committee

FSANZ - Food Standards Australia New Zealand

GAIN - Global Agriculture Information Network

HACCP - Hazard Analysis Critical Control Point

HAL - Horticulture Australia Limited

ICON - Import Conditions Database

IPPC - International Plant Protection Convention

IRA - Import Risk Analyses

ISC - Implementation Sub-Committee

ISO - International Standards Organisation

JAS-ANZ - Joint Accreditation System of Australia and New Zealand

MAF - Ministry of Agriculture (New Zealand)

ML - Maximum Levels

MPC - Maximum Permitted Concentration

MRL - Maximum Residue Limits

NRA - National Registration Authority

NRS - National Residue Survey

PHA - Plant Health Australia

PHC - Plant Health Committee

PIHC - Primary Industries Health Committee

PIMC - Primary Industries Ministerial Council

PISC - Primary Industries Standing Committee

QA - Quality Assurance

SPS Agreement - Sanitary and Phytosanitary Measures Agreement

The Code - *Australia New Zealand Food Standards Code*

The Ministerial Council - Australia New Zealand Food Regulation Ministerial Council

The Scheme - Imported Food Inspection Scheme

TPCB - Third Party Certification Body

TTMRA - *Trans Tasman Mutual Recognition Act 1997*

USDA - United States of America Department of Agriculture

WTO - World Trade Organisation

Appendix 1 – Risk Category Food

IMPORTED FOOD INSPECTION SCHEME
RISK CATEGORY FOOD LIST
17 August 2004

RISK FOOD MUST BE HELD UNTIL THE RESULT OF THE LABORATORY TESTS ARE ASSESSED BY AQIS

Application of additional or alternate tests

Where an authorised officer has reasonable grounds to believe that a food may not comply with the requirements of the Australia New Zealand Food Standards Code (FSC) or may pose a risk to human health, additional appropriate tests may be applied after consultation with their Food Safety Manager or on advice from the Food Safety Unit, Canberra.

Application of required tests when auditing certified entries

Where a risk category food is accompanied by Government to Government certification recognised by AQIS Imported Food Inspection Scheme and the food is referred for an audit inspection, all tests applicable to that food in the risk list must be applied.

Visual inspection and label assessment.
All products referred to the Imported Food Inspection Scheme (IFIS) must have a visual inspection and label assessment whether analytical tests are required or not.

FOOD CATEGORY	Food Category Clarification	ANALYSES	Permitted Analysis Results	Analysis Notes
Coconut dried	Dried coconut (whether whole, flaked, chipped, shredded, desiccated or ground) with or without the addition of additives (e.g. colour). **<u>Excludes</u>** •Coconut milk powder. •Food mixes containing dried coconut as an ingredient.	Salmonella	ND / 25g	
Herbs, spices, and dried vegetables used as seasonings (to improve or enhance flavour)	All forms of dried herbs, spices, and dried vegetables used as seasonings (e.g.: celery salt, chilli powder, onion flakes, garlic flakes, tomato flakes, vegetable stock cubes, etc.) - whether whole, crushed or ground. Pepper and paprika <u>Includes</u> spice mixes and herb mixes. <u>Excludes</u> food containing dried herbs, spices or vegetable seasonings as an ingredient, dried soup mixes.	Ethylene chlorohydrin As for 'All' plus *Salmonella*	ND ND / 25g	*Salmonella* test is applied to cinnamon at the random rate (5%) *Salmonella* test is applied to pepper and paprika at the risk rate (100%)

FOOD CATEGORY	Food Category Clarification	ANALYSES	Permitted Analysis Results	Analysis Notes
Nuts – peanuts and pistachios **(whether in shell or not, whether raw, blanched, roasted or processed by physical means i.e. crushed, ground)**	Peanuts and pistachios as: single ingredient foods; or a mixed food made up of only peanuts and pistachios, with or without the addition of other condiments, salt and/or oil.	Aflatoxin	15 µg/kg	Additional tests (**Cadmium, Salmonella** and **Pesticide screen**) are applied at the random rate. *Note*: all aflatoxin levels <5ug/kg are not a food safety issue and product is not to be failed.

FOOD CATEGORY	Food Category Clarification	ANALYSES	Permitted Analysis Results	Analysis Notes
Nuts - Peanut products, pistachio products and food containing greater than 30 %: ▪ **peanuts;** ▪ **pistachios;** ▪ **peanut and pistachio mix;** ▪ **peanut products;** ▪ **pistachio products** **as an ingredient.**	Typically includes foods such as nut butter/paste, nut flour, nut mixes, some bakery goods and some confectionery items etc. **Excludes** oils derived from these nut types.	Aflatoxin	*depends upon % peanuts	Foods containing less than or equal to 30% peanuts or pistachios (or combination of both) are random category foods. (See 'Random Category Notice') Additional tests (**Cadmium, *Salmonella*** and **Pesticide screen**) are applied at the random rate. *Refer to IF notice 28/02 for MRL calculation. *Note*: all aflatoxin levels <5ug/kg are not a food safety issue and product is not to be failed.

FOOD CATEGORY	Food Category Clarification	ANALYSES	Permitted Analysis Results	Analysis Notes
Sauces – Peanut, Satay and other peanut sauces	Satay and other peanut sauces containing peanuts at any compositional level. Includes **satay sauce if the sauce contains peanuts.** Excludes **satay sauce that does not contain any peanuts or peanut products.**	**Aflatoxin**	*depends upon % peanuts	Additional tests (**Cadmium, *Salmonella*** and **Pesticide screen**) are applied at the random rate. *Refer to IF notice 28/02 for MRL calculation. *Note*: all aflatoxin levels <5ug/kg are not a food safety issue and product is not to be failed.
Sesame seeds and sesame seed products	Sesame seeds (whether broken or not) and sesame seed products. **Includes** tahini, halva, hummus, baba ghanouj, any other sesame based dips, and all other sesame based products that are not commercially heat-treated. **Excludes** sesame seed oil, canned product that is commercially heat treated. [1]	***Salmonella***	ND / 25g	Additional test **(Pesticide screen**) is applied at the random rate

Microbiological limits where;

n = the minimum number of sample units which must be examined from a lot of food.

c = the maximum allowable number of defective sample units i.e. that have counts between 'm' and 'M'.

m = the acceptable microbiological level in a sample unit.

M = the level which when exceeded (i.e.; the level is greater than M) in one or more samples, would cause the lot to be rejected.

Abbreviations

FSC = Food Standards Code
ND = Nil detect
SET = Staphylococcal enterotoxin
SPC = Standard Plate Count

Appendix 2 – Active Surveillance category food

IMPORTED FOOD INSPECTION SCHEME
ACTIVE SURVEILLANCE CATEGORY FOOD LIST
17 August 2004

Application of tests to foods either in addition to or as an alternative to those specified in this document.

Should an Authorised Officer have reasonable grounds to believe that a food may not comply with Australia's food standards, alternative or additional analysis may be ordered by the Officer. This option applies in all cases and includes the application of analytical tests to those foods for which no analytical tests are specified in the first instance. The application of such tests must be done in consultation with the officer's Food Safety Manager or officers in the Food Safety Unit, Canberra.

Visual inspection and label assessment.
All products referred to the Imported Food Inspection Scheme (IFIS) must have a visual inspection and label assessment whether analytical tests are required or not.

"CHAPTERS" refers to the chapters the active surveillance foods are entered under in the tariff classifications administered by the Australian Customs Service. They are included as a guide for AQIS officers only.

ACTIVE SURVEILLANCE CATEGORY FOOD LIST
17 August 2004

CHAPTER 7

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F TESTING REQUIREMENTS	Limits
Edible vegetables	0709 0710	**All vegetable sprouts** (however packed) – excluding product which is canned or has undergone an equivalent heat treatment that renders the product commercially sterile.	***Salmonella***	ND / 25g

CHAPTER 8

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F TESTING REQUIREMENTS	Limits
Dried edible fruit	0804.1000 /17 0806.2000 /30	**Dried or moisture-reduced dates and Dried or moisture-reduced sultanas**	**Lead** and **Pesticide screen**	Refer to FSC
	0804.2000 /19	**Dried Figs** Note: should fresh figs be referred for inspection refer to 'Random Category Notice' for tests to assign	**Sulphur dioxide** and **Pesticide screen**	Refer to FSC

Abbreviations
FSC = Food Standards Code
ND

Appendix 3 – Random surveillance category food

IMPORTED FOOD INSPECTION SCHEME
RANDOM SURVEILLANCE CATEGORY FOOD LIST
17 August 2004

APPLICATION OF TESTS TO FOODS IN ADDITION TO OR AS AN ALTERNATIVE TO THOSE SPECIFIED IN THIS DOCUMENT.

Should an Authorised Officer have reasonable grounds to believe that a food may not comply with Australia's food standards, alternative or additional analysis may be ordered by the Officer. This option applies in all cases and may include the application of analytical tests to those foods for which no analytical tests are specified in the first instance. The application of such tests must be done in consultation with the officer's Food Safety Manager or officers in the Food Safety Unit, Canberra.

VISUAL INSPECTION AND LABEL ASSESSMENT.

All products referred to the Imported Food Inspection Scheme (IFIS) must have a visual inspection and label assessment whether analytical tests are required or not.

THERMALLY PROCESSED.

For the purpose of this document the term thermally processed refers to product that has been processed by heat to prevent spoilage, is packaged in air tight containers such as cans, bottles, jars, retort pouches and similar packages and is shelf stable.

**RANDOM CATEGORY TESTS APPLIED TO PEANUTS, PISTACHIOS, SATAY AND PEANUT SAUCES, AND MIXED FOOD CONTAINING PEANUTS, PISTACHIOS, PEANUT PRODUCT, PISTACHIO PRODUCT OR A COMBINATION OF, AND WITH A PEANUT AND/OR PISTACHIO CONTENT GREATER THAN 30 PER CENT (I.E. RISK CATEGORY FOODS)

Food Standards Australia New Zealand (FSANZ) has requested that peanuts be inspected and analysed at the Random Surveillance Category for the following;

- *Salmonella*,
- Pesticide screen and
- Cadmium.

AIMS will apply the above tests at the "reduced rate" to the above products i.e. at the rate equal to the random rate of 5 %. Where this occurs the peanuts should be inspected on a "Release after inspection" basis unless the test for 'aflatoxins' is applied in conjunction with any of the above tests. Where this occurs, the peanuts must be held until the result of the 'aflatoxins' test is known.

****Random category tests applied to mixed food containing peanuts, pistachios, peanut product, pistachio product or a combination of, and with a peanut and/or pistachio content less than or equal to 30 per cent (i.e. random category foods)**

FSANZ has requested that such foods be inspected and analysed at the Random Surveillance Category for the following;

- Aflatoxin,
- *Salmonella*,
- Pesticide screen and
- Cadmium.

Note: Specific tariffs for these foods cannot be identified. Regardless of the tariffs they are lodged under the appropriate tests should be applied.

"CHAPTERS" refers to the chapters the random surveillance foods are entered under in the tariff classifications administered by the Australian Customs Service (ACS). They are included as a guide for AQIS officers only.

Microbiological testing

Microbiological limits where;
n = number of sub-samples
c = number of sub-samples permitted to have counts which are considered marginally acceptable, i.e. Have counts between 'm' and 'M'
m = microbiological limits which separates acceptable from marginally acceptable or defective.
M = microbiological limits which separates marginally acceptable from defective.

Table 5 - Artificial sweeteners

The screen for artificial sweeteners tests for the presence of Saccharin and Cyclamates.
Where a laboratory report indicates thus:

Additive	Units	Level
Saccharin	mg/kg	<10
Cyclamates	mg/kg	<200

The levels indicate that the additives are below the limit of detection (LOD) and are therefore considered not to be present in the food.

Limits

The limits identified by '*' in the Random Surveillance Category Food List are on advice from FSANZ.

Abbreviations

FSC = Food Standards Code
ND = Nil detect
SPC = Standard Plate Count

RANDOM SURVEILLANCE CATEGORY FOOD LIST
16 August 2004

CHAPTER 7: EDIBLE VEGETABLES & CERTAIN ROOTS &TUBERS

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F TESTING REQUIREMENTS	Limits	Notes
Vegetables - Potatoes Tomatoes onions, garlic & leeks cabbages and other brassicas lettuce carrots & other edible roots cucumbers & gherkins leguminous vegetables other vegetables frozen vegetables preserved vegetables (SO2, brine) dried vegetables dried leguminous vegetables (lentils, beans etc) manioc, arrowroot	0701 0702 0703 0704 0705 0706 0707 0708 0709 0710 0711 0712 0713 0714	**All vegetables** **Leafy, root & tuber vegetables** (see note) **Preserved vegetables** (retail packs) NOTE: **vegetable sprouts** (not canned) are active surveillance category foods NOTE: **dried vegetables used as seasonings** are risk category foods	Pesticide screen as for 'all' plus Cadmium as for 'all' plus Sulphur dioxide	Refer to FSC	See 'Active Category Notice' for tests on vegetable sprouts See 'Risk Category Notice' for tests on dried vegetables used as seasonings

NOTE: The following lists act as a guide to the kinds of food that may be inspected.

Leafy vegetables (including brassica leafy vegetables)

Commodities: Amaranth; Box thorn; Chard (silver beet); Chervil; Chicory leaves; Chinese cabbage (Pe-tsai); Choisum; Cress, garden; Dandelion; Dock; Endive; Grape leaves; Indian mustard; Japanese greens; Kale; Kangkung; Komatsuma; Lettuce, Head; Lettuce, Leaf; Marsh marigold; Mustard greens; New Zealand spinach; Pak-choi; Pokeweed; Purslane; Radish leaves (including radish tops); Rape greens; Rucola; Sowthistle; Spinach; Turnip greens; Watercress.

Root and tuber vegetables,

Commodities: Arrowroot; Beetroot; Canna, edible; Carrot; Cassava; Celeriac; Chicory, roots; Horseradish; Jerusalem artichoke; Parsnip; Potato; Radish; Radish, Japanese; Salsify; Scorzonera; Sugar beet; Swede; Sweet potato; Taro; Turnip, garden; Yams.

The above commodity groups are from Standard 1.4.2 of the FSC. Please refer to this standard for any changes to these groups.

CHAPTER 8: EDIBLE FRUITS & NUTS; PEEL OF CITRUS FRUIT OR MELONS

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F TESTING REQUIREMENTS	Limits	Notes
Coconut, brazil nuts & cashews **Other nuts**	0801 0802	**All nuts** (except fresh whole coconuts) Nut pastes **NOTE: Peanuts, peanut products and foods containing > 30% peanut** are risk category foods	Aflatoxins as for 'all' plus *Salmonella*	Refer to FSC ND*	See 'Risk Category Notice' for tests on 'risk' peanuts and peanut products
Fruit - fresh or dried i.e., bananas, pineapple, mangoes citrus, grapes , melons & pawpaws apples, pears & quinces apricots, cherries, peaches & plums other fruits **including those that are further processed and whether or not containing added sugar or other sweetening matter**	0803 0804 0805 0806 0807 0808 0809 0810 0811 0812 0813 0814	ALL FRUIT – FRESH OR DRIED **Dried fruit** **NOTE: Dried dates, dried figs and dried sultanas** are active surveillance category foods	Pesticide screen As for "All" plus Artificial Sweetener	Refer to FSC	See 'Active Category Notice' for tests on dried dates, dried figs and dried sultanas

CHAPTER 11: PRODUCTS OF THE MILLING INDUSTRY

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F. TESTING REQUIREMENTS	Limits	Notes
Milled cereal products	1101 1102 1103 1104 1105 1106 1107 1108 1109	ALL CORN/MAIZE PRODUCTS ONLY **All other milled products** – wheat flour, other cereal flours, cereal groats & meals, worked cereal grains (eg: rolled oats, kibbled grain), potato flour, meal and flakes, flour & meal of dried leguminous vegetables, sago & powdered vegetables, malt, starches, gluten	Aflatoxins Visual and label only	Refer to FSC	

CHAPTER 12: OIL SEEDS & OLEAGINOUS FRUITS MISCELLANEOUS GRAINS, SEEDS & FRUITS

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F. TESTING REQUIREMENTS	Limits	Notes
Oil seeds and oleaginous fruits	1201 1202 1203 1204 1205 1206 1207 1208	**All seeds, flours and meals** of soy beans, copra, linseed, rape or colza seed, sunflower, palm, cotton, castor oil, mustard safflower & poppy seeds, shea nuts and the like and products thereof. NOTE: **Sesame seeds** are risk category foods	Pesticide screen	Refer to FSC	See 'Active Category Notice' for tests on sesame seeds
Hop cones (ground, powdered or pellets)	1210	**All hop cones** (ground, powdered or pellets	Pesticide screen	Refer to FSC	
Plant & plant products (includes herbs, ginseng, liquorice)	1211	**All plant & plant products** (includes herbs, ginseng, liquorice)	*Salmonella*	ND*	
Other plant products used for human food (includes locust bean seeds, kernels, roots, seaweeds, algae and kava)	1212	**All other plant products used for human food** (includes locust bean seeds, kernels, roots, seaweeds, algae and kava)	*Salmonella*	ND*	

CHAPTER 13: LAC, GUMS, RESINS & OTHER VEGETABLE SAPS

PRODUCT GROUP	TARIFF GROUP	Food to be inspected	I.F TESTING REQUIREMENTS	Limits	Notes
Natural gums	1301 1302	**All natural gums** (eg. gum arabic) **Vegetable saps & extracts, pectin, agar and other thickeners derived from vegetables**	Visual and label only	Refer to FSC	

CHAPTER 20: PREPARATIONS OF VEGETABLES, FRUIT, NUTS OR OTHER PARTS OF PLANTS

PRODUCT GROUP	**TARIFF GROUP**	**Food to be inspected**	**I.F TESTING REQUIREMENTS**	**Limits**	Notes
Preserved vegetables & fruits (by vinegar, acetic acid)	2001	**All preserved vegetables & fruits** prepared or preserved by vinegar or acetic acid. **Thermally processed hermetically sealed**	Pesticide screen As for 'all' plus pH If the pH >4.5, then test - Commercial sterility	Refer to FSC Com. Sterile	
Preserved tomatoes	2002	**All preserved tomatoes** (<u>not</u> by vinegar, acetic acid) <u>including</u> dried tomatoes in oil) **Thermally processed hermetically sealed products**	Pesticide screen and Sulphur dioxide (except canned) as for 'all' plus -pH If the pH >4.5, then test - Commercial sterility	Refer to FSC Com. Sterile	

CHAPTER 20: cont.

PRODUCT GROUP	**TARIFF GROUP**	**Food to be inspected**	**I.F TESTING REQUIREMENTS**	**Limits**	Notes
Prepared or preserved mushrooms & truffles	2003	**All prepared or preserved mushrooms & truffles** **Thermally processed hermetically sealed products**	Staph enterotoxin As for 'all' plus pH If the pH >4.5, then test - Commercial sterility	ND* Com. Sterile	
Other prepared or preserved vegetables – frozen	2004	**All frozen prepared or preserved vegetables**	Pesticide screen	Refer to FSC.	

Other prepared or preserved vegetables - not frozen	2005	**All other prepared or preserved vegetables - not frozen** (including low acid canned vegetables & olives)	Pesticide screen As for 'all' plus pH If the pH >4.5, then test - Commercial sterility Staph enterotoxin	Refer to FSC. Com. Sterile ND*	
		THERMALLY PROCESSED HERMETICALLY SEALED PRODUCT			
		Non-thermally processed hermetically sealed product in brine/other liquid (eg bulk barrels)			
Preserved vegetables & fruits (by sugar) – drained, glace or crystallised	2006	**All preserved vegetables & fruits** preserved by sugar (drained, glace or crystallised) **Thermally processed hermetically sealed**	Artificial sweetener and Pesticide screen As for 'all' plus pH If the pH >4.5, then test - Commercial sterility	Refer to Table 5 Refer to FSC Com. Sterile	

CHAPTER 20: cont.

PRODUCT GROUP	**TARIFF GROUP**	**Food to be inspected**	**I.F TESTING REQUIREMENTS**	**Limits**	Notes
Jams, fruit jellies, marmalades, fruit or nut puree and fruit or nut pastes	2007	**All nut pastes** **All thermally processed hermetically sealed product** NOTE: **Tahini (sesame seed paste), peanut and pistachio paste** are <u>risk category food</u>	*Salmonella* and Aflatoxins Commercial sterility	ND* Refer to FSC Com. Sterile	See 'Risk Category Notice' for tests on tahini, peanut and pistachio paste

Other preserved fruits & nuts not elsewhere specified (includes ground nuts & other seeds, canned fruits)	2008	ALL OTHER PRESERVED FRUITS & NUTS NOT ELSEWHERE SPECIFIED (INCLUDING PRODUCT IN BRINE/OTHER LIQUID E.G. BULK BARRELS) **Thermally processed hermetically sealed product** NOTE: **Tahini (sesame seed paste),** is a <u>risk category food</u>	Pesticide screen As for 'all' plus Commercial sterility	Refer to FSC Com. Sterile	See 'Risk Category Notice' for tests on tahini
Fruit & vegetable juices	2009	ALL FRUIT AND VEGETABLE JUICES **Apple juice Pear juice**	Pesticide Screen As for 'all' plus Patulin	Refer to FSC 50 µg/kg	

Appendix 4 – Food Standards Code requirements for fruit and vegetables

The information below are the Standards that relate to Fruit and Vegetables, and only the Standard and Clause that refer to fruit and vegetables are listed in this document.

Chapter 1 – General Food Standards

Standard 1.1.1 Preliminary Provisions – Application, Interpretation and General Prohibitions

This Standard sets out provisions which apply to the Australia and New Zealand Food Standard Code. Clause 2 lists the Interpretations.

Standard 1.1.2 Supplementary Definitions for Foods

This Standard sets out definitions for foods which do not have specific compositional requirements elsewhere in the Code.

Clause 1 lists the Definitions.

Standard 1.1A.2 is the Transitional Standard – Health Claims

This Standard refers to Fruit and Vegetables in Table to subclause 3 and permits specific Health Claims for Fruit and Vegetables.

Standard 1.1A.3 is the Transitional Standard for Country of Origin Labelling

There will be a new Country of Origin Labelling Standard 1.2.11. At the time of drafting this, the review of country of origin labelling requirements for food has not been finalised. This Standard incorporates the various country of origin requirements contained in the former Australian Food Standards Code. Clause that relate to Fruit and Vegetables are:

Clause

2. General requirements.
4. Vegetables.
5. Nuts.
6. Fruit.
7. Fruit Juices containing imported fruit ingredients.
8. Orange juice.
9. Fruit drink.

Standard 1.2.1 Application of Labelling and other Information Requirements

This Standard sets out the application of general labelling (including Fruit and Vegetables) and other information requirements contained in Part 1.2. The Clause that relates to Fruit and Vegetables are:

Exemption to Labelling Clause 2 sub-clause (e) the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables.

Standard 1.2.2 Food Identification Requirements

This Standard requires that certain information must be included on the label on a food in order to be able to identify the food in question.

Standard 1.2.3 Mandatory Warning and Advisory Statements and Declarations

This Standard sets out mandatory advisory statements and declarations which must be made in relation to certain foods or foods containing certain substances.
Clauses that relate to Fruit and Vegetables are Clause 4. The presence in a food of any of the substances listed in the Table to this clause, must be declared in accordance with the Code

Table to clause 4

- Cereals containing gluten and their products, namely, wheat, rye, barley, oats and spelt and their hybridised strains other than where these substances are present in beer and spirits standardised in Standards 2.7.2 and 2.7.5 respectively
- Crustacea and their products
- Egg and egg products
- Fish and fish products
- Milk and milk products
- Peanuts and soybeans, and their products
- Added Sulphites in concentrations of 10 mg/kg or more
- Tree nuts and sesame seeds and their products

Standard 1.2.4 Labelling of ingredients

This Standard sets out specific requirements for the labelling and naming of ingredients and compound ingredients.

Standard 1.2.5 Date Marking of Packaged Food

This Standard prescribes a date marking system for packaged food and the form in which those foods must be date marked. The Standard requires packaged food, with some exceptions, to be date marked, and prohibits the sale of packaged food after the expiration of the use-by date, where such a date mark is required.

In particular, clause 2 of this Standard sets out the circumstances in which a use-by date must be used instead of a best-before date.

Standard 1.2.6 Directions for use and Storage

This Standard requires either directions for use and/or directions for storage of food, to be included on the label, where, for reasons of health and safety, the consumer should be informed of specific use or storage requirements.

Standard 1.2.8 Nutrition Information Requirements

This Standard sets out nutrition information requirements in relation to food and also prescribes when nutritional information must be provided, and the manner in which such information is provided.

Clause 3 of this Standard lists the exemption, sub-clause:
(c) A herb, a spice, a herbal infusion.
(f) tea, decaffeinated tea, decaffeinated instant or soluble tea, instant or soluble tea, coffee, decaffeinated instant or soluble coffee, instant or soluble coffee, as defined in Standard 1.1.2
(i) fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients.

Standard 1.2.9 Legibility Requirements

This Standard sets out general and specific legibility requirements for the labelling of packaged foods.

Standard 1.2.10 Characterising Ingredients and Components of Food

This Standard sets out specific requirements for the declaration of the percentage of characterising ingredients and components of certain food products that are required to be declared.

Examples of ingredients that are mentioned in the name of the food include ‘strawberry yoghurt’, and ‘apple pie’. An example of a category of ingredients mentioned in the name of the food is ‘vegetables’ in a ‘vegetable pastie’ and ‘Fruit’ in a ‘Fruit pie’.

In deciding which ingredients are ‘usually associated with the name of a food by a consumer’, for example, A ‘spring roll’

A ‘spring roll’ could be described as ‘vegetables in a light pastry’. The proportion of ‘vegetables’ in the spring roll would in this case be declared.

Examples of ingredients that are emphasised on the label of a food in words, pictures or graphics would include an illustration of ‘fruit and nuts’ in fruit and nut chocolate.

Standard 1.3.1 Food Additives.

In this Standard a food additive is any substance not normally consumed as a food in itself and not normally used as an ingredient of food, but which is intentionally added to a food to achieve one or more of the technological functions. It or its by-products may remain in the food.

This Standard regulates the use of food additives in the production and processing of food. A food additive may only be added to food where expressly permitted in this standard.

The permitted additives for fruit and vegetables are under Schedule 1 clause 4.
In this Standard, additives in Schedules 2, 3 & 4 must not be added to unprocessed fruit and vegetables unless expressly permitted below.

Standard 1.3.2 Vitamins and Minerals

This Standard regulates the addition of vitamins and minerals to foods, and the claims which can be made about the vitamin and mineral content of foods.

Claimable food means a food which consists of at least 90% by weight of –primary foods.

Primary food means fruit, vegetables, grains, legumes, meat, milk, eggs, nuts, seeds and fish.

Standard 1.3.3 Processing Aids

This Standard regulates the use of processing aids in food manufacture, prohibiting their use in food unless there is a specific permission within this Standard.

Clause 12 ‘Permitted bleaching agents, washing and peeling agents’

The processing aids listed under this clause may be used as bleaching agents, washing and peeling agents in the course of manufacture of specified fruit and vegetables.

Standard 1.4.1 Contaminants and Natural Toxicants

This Standard sets out the maximum levels (MLs) of specified metal and non-metal contaminants and natural toxicants in nominated foods. As a general principle, regardless of whether or not a ML exists, the levels of contaminants and natural toxicants in all foods should be kept As Low As Reasonably Achievable (the ALARA principle).

Standard 1.4.2 Maximum Residue Limits (Australia only)

This Standard lists the maximum permissible limits for agricultural and veterinary chemical residues present in food.

Schedule 1 lists all of the agricultural and veterinary chemical limits in particular foods. If a maximum residue limit for an agricultural or veterinary chemical in a food is not listed in Schedule 1 there must be no detectable residues of that agricultural or veterinary chemical in that food.

Also, if an agricultural or veterinary chemical is not listed in Schedule 1, there must be no detectable residue of that chemical and no detectable residue of any metabolites of that chemical in food (whether or not that the particular food is listed in Schedules 1, 2 or 4).

However, this Standard does not limit the presence of substances, including ingredients, food additives and processing aids that are otherwise permitted in the Code. Nor does it limit the presence of a substance naturally present in food, such as water or salt, or the presence in a food of substances that are formed naturally during processing of the food.

Schedule 2 lists all extraneous agricultural chemical limits in particular foods.

If an extraneous residue limit for an agricultural chemical in a food is not listed in Schedule 2 there must be no detectable residues of that agricultural chemical in that food.

Schedule 3 groups certain agricultural or veterinary chemicals according to their chemical groups.

Commodity and commodity groups which are referred to in this Standard are listed in Schedule 4. Schedule 4 also specifies the part of the commodity to which the maximum or extraneous residue limit refers.

Clause 2 Maximum Residue Limits

(1) The permitted MRL for a chemical in food is listed in Schedule 1
(2) If an MRL for a chemical is not listed in this Standard there must be no detectable residue of that chemical in that food.
(3) If a chemical in not listed in this Standard there must be no detectable residue of –

(a) that chemical in food (whether or not the food is listed in Schedule 1,2 or 4); and
(b) metabolites of that chemical in food (whether or not the food is listed in Schedule 1, 2 or 4).

Standard 1.4.4 Prohibited and Restricted Plants and Fungi

This standard regulates plants and fungi. It lists the species of plants and fungi that must not be added to food or offered for sale as food. It also lists the species of plants and fungi that may not be used in food except as a source of a flavouring substance.

Standard 1.5.1 Novel Foods

This Standard regulates the sale of novel food and novel food ingredients. This Standard prohibits the sale of these foods unless they are listed in the Table to clause 2, and comply with any special conditions of use in that Table. The specific permission may impose conditions relating to matters such as the need for preparation or cooking instructions, warning statements or other advice, or the need to meet specific requirements of composition or purity.

The purpose of this Standard is to ensure that non-traditional foods which have features or characteristics which raise safety concerns will undergo a risk-based safety assessment before they are offered for retail for direct consumption in Australia and/or New Zealand.

Standard 1.5.2 Food Produced Using Gene Technology

Division 1 of this Standard addresses health and safety requirements, regulating the sale of food produced using gene technology, other than additives and processing aids. The Standard prohibits the sale and use of these foods unless they are included in the Table to clause 2 and comply with any special conditions in that Table.

Division 2 of this Standard specifies labelling and other information requirements for foods, including food additives and processing aids, produced using gene technology.

Standard 1.5.3 Irradiation of Food

This Standard prohibits the irradiation of food, or ingredients or components of food, unless a specific permission is given. The specific permission may impose conditions relating to matters such as dose, packaging materials, approved premises or facilities.

Food should only be processed by irradiation where such processing fulfils a technological need or is necessary for a purpose associated with food safety.

This Standard also sets out permitted sources of radiation, requires the keeping of certain records in relation to the irradiation of food, and requires the labelling of food which has been irradiated.

Clause 4 of this Standard lists the foods that are permitted to be irradiated.

Standard 1.6.1 Microbiological Limits for Food.

This Standard lists the maximum permissible levels of foodborne micro-organisms that pose a risk to human health in nominated foods, or classes of foods. This Standard includes mandatory sampling plans, used to sample lots or consignments of nominated foods or classes of foods, and the criteria for determining when a lot or consignment of food poses a risk to human health and therefore should not be offered for sale, or further used in the preparation of food for sale.

The microbiological standards included in the Schedule to this Standard are applicable to the foods listed in the Schedule.

Standard 1.6.2 Processing Requirements

This Standard sets out the requirements for processing of foods regulated in Chapter 2 of this Code.

Chapter 2 – Commodity Standards

Standard 2.1.1 Cereals and Cereal Products

This Standard defines a number of products composed of cereals, qualifies the use of the term ‘bread’, and requires the mandatory fortification of flour for bread making with thiamin in Australia.

Standard 2.3.1 Fruit and Vegetables

This Standard provides specific definitions for fruit and vegetables, which include nuts, spices, herbs, fungi, legumes and seeds based on processing categories in Standard 1.3.1 for the purpose of providing specific additive permissions.

fruit and vegetables means fruit, vegetables, nuts, spices, herbs, fungi, legumes and seeds.

peeled and/or cut fruit and vegetables means fruit and vegetables that are peeled and/or cut, whether or not they have been surface treated.

surface treated fruit and vegetables means fruit and vegetables harvested, washed and treated with permitted processing aids and food additives.

Standard 2.3.2 Jam

This Standard defines jam and includes compositional requirements for the manufacture of those products.

jam means the product prepared by processing one or more of the following –
(a) fruit; and
(b) sugars or honey; and
(c) fruit juice; and
(d) concentrated fruit juice; and
(e) water extracts of fruit;
and includes conserve, but excludes marmalade.

Standard 2.4.1 Edible Oils

This Standard contains specific labelling and composition requirements for edible oils.

edible oils mean the triglycerides and/or diglycerides of fatty acids of plant or animal origin.

All edible fats are included in the definition of edible oils. 'Plant' includes aquatic plants and 'animal' includes aquatic animals.

This Standard does not define specific names for edible oils.

Guidance on the specific naming of oils may be found in Codex Alimentarius 1983 Volume 8 - Fats, Oils and Related Products and the Agreement to Monitor Olive Oils and Olive Pomace Oils in Australia issued by the Australian Olive Oil Association.

Standard 2.4.2 Edible Oil Spreads.

This Standard defines edible oil spreads and margarine and sets compositional requirements for these products.

edible oil spreads means a spreadable food composed of edible oils and water in the form of an emulsion of the type water-in-oil.

margarine means an edible oil spread containing no less than 800g/kg of edible oils.

Standard 2.6.1 Fruit Juice and Vegetable Juice

This Standard defines fruit and vegetable juice, sets certain compositional permissions for the product and specifies labelling requirements for juice blends.

fruit juice or vegetable juice means the liquid portion, with or without pulp, obtained from –

(a) fruit or vegetables respectively; and
(b) in the case of citrus fruit, other than lime, the endocarp only of the fruit;

and includes products that have been concentrated and later reconstituted with water to a concentration consistent with that of the undiluted juice from which it was made.

juice blend means juice made from a blend of more than one juice.

Standard 2.6.2 Non-Alcoholic Beverages and Brewed Soft Drink

This Standard deals with packaged Fruit drink. The Standard defines a number of products and sets certain compositional requirements for fruit drinks other drinks. Labelling requirements specific to electrolyte drinks are included in this Standard.

fruit drink means a product prepared from one or more of the following -

(a) fruit juice; and
(b) fruit purée; and
(c) concentrated fruit juice; and
(d) concentrated fruit puree; and
(e) comminuted fruit; and
(f) orange peel extract; and
(g) water; and
(h) mineralised water; and
(i) sugars.

Composition of fruit drinks

Fruit drinks must contain no less than 50 mL/L of fruit, except in the case of passionfruit drink which must contain no less than 35 mL/L of passionfruit, prepared from any of the sources specified in the definition for fruit drink in paragraphs 1(a) to (f).

Standard 2.6.3 Kava

This Standard, in conjunction with the National Code of Management on the Restriction of the Sale and Advertising of Kava (the National Code of Kava Management), regulates the sale and distribution of kava in Australia.

cold water extraction means the aqueous suspension of kava using cold water only and excludes the use of any organic solvent.

kava means –

(a) a beverage obtained by cold water extraction; or
(b) the dried or fresh form;

of the peeled root and/or peeled rootstock, but excluding any root peelings and any of the aerial parts, of plants of the species *Piper methysticum*.

Standard 2.8.1 Sugar

This Standard provides specific definitions for sugar and related products. The Standard also sets a compositional requirement for white sugar.

sugars means -

(a) hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose; or
(b) starch hydrolysate; or
(c) glucose syrups, maltodextrin and similar products; or
(d) products derived at a sugar refinery, including brown sugar and molasses; or
(e) icing sugar; or
(f) invert sugar; or
(g) fruit sugar syrup;

derived from any source, but does not include -

(h) malt or malt extracts; or
(i) sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup or lactitol.

Chapter 3 - Food Safety Standards

The Food Safety Standards apply in accordance with Chapter 3 - Food Safety Standards - to all food businesses in Australia.

Chapter 4 - Primary Production and Processing Standards

There are no Primary Production and Processing Standards for Horticultural Produce at the time of drafting this report.

Appendix 5 – Imported Food Notices

A compilation of imported food notices particularly relevant to imported horticultural produce is presented below.

06/02 - New pesticide screen
22/02 - Enforcement of Producer (Manufacturer/Packer) Details
27/02 - Food safety certification that is recognised under AQIS's imported food inspection scheme
28/02 - Change to categorization of mixed food containing peanuts, peanut product or a combination of both.
04/03 - Phase out of Ethylene oxide (EtO) use in food – by 30 September 2003
08/03 - Irradiation of tropical fruit
10/03 - Tahini to be tested for the presence of Salmonella
24/03 - Ethylene oxide and imported herbs, spices and dried vegetables used as seasoning
28/03 - New 'HOLD Imported Foods' label (EX381 07/03)
29/03 - 'Examinable Food Notification to Owner' - EX382 (07/03) to be used for deeming food to be examinable food
10/04 - Imported Food Testing of Colours and Artificial Sweeteners
43/04 - Amendment to Risk Categorised Foods
44/04 - Amendment To Active Surveillance Category Foods
45/04 - Amendment To Random Surveillance Category Foods
49/04 - Notification of Laboratory Testing Capabilities Matrices
02/05 - The use of *Stevia* and *Stevioside* in food
08/05 - Changes to customs threshold and the implications for Imported Foods.

Appendix 6 - Current status of plant Import Risk Analyses (IRAs) relevant to horticultural produce.

Allium The release of the issues paper has been delayed as BA is progressing work on other IRAs that are considered a higher priority.

Apples from New Zealand - A revised draft IRA report for apples from New Zealand has been issued for Stakeholder comment. Comments close 30 March 2006.

Bananas from the Philippines - PBPM 2005/03 advised that Biosecurity Australia would review all IRAs in progress and reissue them as revised drafts for a further period of public comment. The IRA for bananas from the Philippines was included in this announcement. The IRA for bananas from the Philippines is progressing and a further revised draft IRA report will be issued for comment.

Bulbs from Netherlands, UK, NZ, Israel - PBPM 2001/17 advised that Biosecurity Australia received 15 comments for the IRA for Bulbs from the Netherlands, UK, NZ and Israel. Work has progressed on collating and compiling responses to the complex issues raised in the submissions, and much new information has come to light as a result of the consultation process and subsequent follow up. The pest lists and pest data sheets are being checked and revised in light of this new information.

Citrus from Florida, USA - PBPM 2005/03 advised that Biosecurity Australia would review all IRAs in progress and reissue them as revised drafts for a further period of public comment. The IRA for citrus from Florida (USA) was included in this announcement. Progress of the analysis of citrus from Florida (USA) has been on hold pending further information from USA authorities on the citrus canker eradication program in Florida. Details of the eradication program were clarified at the bilateral meeting in April 2005 and work on the preparation of a revised draft IRA report will recommence. The IRA for citrus from Florida (USA) is progressing and a revised draft IRA report will be issued for comment.

Citrus from South Africa - This IRA is on hold pending receipt of additional information requested from the South African authorities.

Limes (Tahitian) from New Caledonia - PBPM 2005/05 of 1 March 2005 notified stakeholders of the release of the revised draft IRA report for further comment. The comment period has now closed. Comments are being reviewed for inclusion in the draft final IRA report for consideration by the Eminent Scientists Group (ESG).

Mushrooms - A draft protocol has been prepared for assessing the weediness and wood decay risk of fungi. Data sheets have been prepared for about 30 edible mushroom species in preparation for assessment.

Unshu mandarins Japan/South Korea - PBPM 2005/01 of 8 February 2005, notified stakeholders of the decision to include consideration of South Korea's import access request for fresh unshu mandarin fruit to Australia in the current IRA on fresh unshu mandarin fruit from Japan. The IRA report for unshu mandarins from Japan/South Korea is progressing.

Appendix 7 – Imported Food Notice 06/02 – New Pesticide Screen

Agricultural chemical	LOR (mg/kg)
Azinphos-methyl	0.20
Carbaryl	0.10
Chlorpyrifos	0.01
Chlorfenvinphos (cis & trans)	0.05
Diazinon	0.05
Dichlorvos	0.10
Dimenthoate	0.15
Disulfoton	0.05
Endosulfan (α β & sulfate)	0.05
Ethoprofos	0.05
Fenamifos	0.05
Fenitrothion	0.01
Fenthion	0.05
Fipronil	0.05
Malathion	0.05
Methidathion	0.05
Mevinphos	0.05
Monocrotophos	0.05
Omethoate	0.05
Parathion-ethyl	0.05
Parathion-methyl	0.05
Phorate	0.05
Phosmet	0.05
Pirimicarb	0.05
Pirimiphos-methyl	0.05

Appendix 8 – Selection of samples

Regulation 22 – *Imported Food Control Regulations 1993* (Cth)

1. If details of lots are provided for a consignment or batch, the number of lots to be selected for sampling is:

(a) if the food is classified as active surveillance or random surveillance food — in accordance with Table 1; and

(b) if the food is classified as risk food and the rate of inspection of the food is tightened or normal — in accordance with Table 1; and

(c) if the food is classified as risk food and the rate of inspection of the food is reduced — in accordance with Table 2.

Table 1 Active or random surveillance food or risk food at tightened or normal rate of inspection

No. of lots in batch	No. of lots to be sampled
2 - 8	2
9 - 15	3
16 - 25	5
26 - 50	8

Table 2 Risk food at reduced rate of inspection

No. of lots in batch	No. of lots to be sampled
2 - 8	2
9 - 15	2
16 - 25	2
26 - 50	3

2. If details of lots are not provided for a consignment or batch, the number of packages (however described) of food to be selected for sampling is determined in accordance with Table 3.

Table 3 Number of sample units where no lots are specified

No. of packages in batch or consignment	No. of sample units to draw
4800 or less	6
4801 - 24000	13
24001 - 48000	21
48001 - 84000	29
84001 - 144000	48
144001 - 240000	84
240000 +	126

Appendix 9 – Summary of the Review by Food Compliance Australia on food labels from food purchased at Retail

Methodology

Food Compliance Australia selected and reviewed forty products from a food retail supermarket chain which did not comply with the requirements of the Code.

The time taken to select and purchase these products was less than three hours.

The range of products selected for the review included retail supermarket Private Label and Proprietary Brands of domestic and imported origin.

The results obtained present a 'snapshot' of the food labelling issues associated with food products purchased at retail and can not be viewed as representative of all product sourced through retail outlets.

As food labelling was the purpose of this review, fresh fruit and vegetables were not assessed in this report.

Only food labels were reviewed - no chemical analyses were conducted and the suppliers were not contacted for further information. The review of the food labels, therefore, represents the minimum level of non-compliance associated with each product.

Results

Overall, the Review identified significant non-compliance with the requirements of the Code of the food labels from the food products purchased from retail outlets.

All product labels were found to contain at least one non-compliant element and a total of 123 non-complying elements were identified across the forty labels.

All product labels did not comply with the requirements of Standard 1.2.8 – Nutrition Information Requirements. Some of the non-compliance associated with the nutritional information panels was of a technical and formatting nature.

In total, the reviewed product labels demonstrated non-compliance with 15 Standards of the Code.

Of particular concern were non-compliance identified with the following standards:

- Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations (9)
- Standard 1.2.4 – Labelling of Ingredients (15); and
- Standard 1.3.1 – Food Additives (9)

A summary of the number of non-compliance occurrences by Standard is tabulated below in Table 1.

Table 1 Summary of non-compliance identified on food labels sourced from retail outlets

Standard	Name of Standard	Non-compliance
1.1.1	Preliminary Provisions – Application, Interpretation and General Prohibitions	1
1.1.2	Supplementary Definitions for Food	1
1.1A.2	Transitional Standard - Health Claims	8
1.1A.3	Transitional Standard for Country of Origin Labelling Requirements (to be deleted on 8 December 2007)	2
1.2.2	Food Identification Requirements	8
1.2.3	Mandatory Warning and Advisory Statements and Declarations	9
1.2.4	Labelling of Ingredients	15
1.2.5	Date Marking of Packaged Food	9
1.2.6	Directions for Use and Storage	2
1.2.8	Nutrition Information Requirements	40
1.2.9	Legibility Requirements	6
1.2.10	Characterising Ingredients and Components of Food	12
1.3.1	Food Additives	9
1.3.2	Vitamins and Minerals	1

Appendix 10 – Food Standards Code and Quarantine (China) requirements for fresh unprocessed garlic

Food Standards Code

Standard 1.3.1 - Food Additives - does not permit the use of Food Additives in fresh unprocessed garlic (schedule 1, Clause 4).

Standard 1.3.3 - Processing Aids - Clause 12 – lists the permitted bleaching agents, washing and peeling agents that may be used in the course of manufacture of fresh unprocessed garlic.

Standard 1.4.1 - Contaminants and Natural Toxicants

- Clause 2 – Maximum level of metal contaminants – sets a Maximum Limit (ML) for Lead in Vegetables (except brassicas) of 0.1 mg/kg.
- Clause 3 – Maximum level of non-metal contaminants – sets a Maximum Limit (ML) for Acrylonitrile (All food) of 0.02 mg/kg and for Vinyl chloride (All food) of 0.01 mg/kg.

Standard 1.4.2 Maximum Residue Limits

An asterix '*' appearing in Schedules 1 or 2 listed below denotes that the maximum residue limit or the extraneous residue limit is set at or about the limit of determination.

A 'T' appearing in Schedules 1 or 2 denotes that the maximum residue limit or the extraneous residue limit is a temporary maximum residue limit or extraneous residue limit.

An 'E' appearing in Schedule 2 denotes an extraneous residue limit.

Schedule 1 – Maximum Residue Limits – Garlic	
Chemical	MRL mg/kg
Alloxydim	T0.1
Benalaxyl	0.1
Carbaryl	5
Chlorothalonil	10
Chlorpropham	*0.05
Chlorpyrifos	T*0.01
Chlorthal-dimethyl	5
Cyanazine	*0.02
Cypermethrin	*0.01

Chemical	MRL mg/kg
Diazinon	0.7
Dichlorvos	0.5
Dicofol	5
Dimethoate	2
Diquat	0.05
Disulfoton	0.5
Dithiocarbamates	4
2,2-Dichloropropionic Acid	*0.1
EPTC	*0.04
Ethofumesate	*0.1
Etridiazole	0.2
Fluazifop-Butyl	0.05
Fluorine (Inorganic Salts)	7
Glyphosate	*0.1
Haloxyfop	T0.05
Inorganic Bromide	20
Ioxynil	*0.02
Linuron	*0.05
Maldison	2
Maleic Hydrazide	15
Metalaxyl	0.1
Metaldehyde	1
Methidathion	*0.01
Methiocarb	0.1
Methyl Bromide	T*0.05
Omethoate	2
Oryzalin	T*0.05
Oxyfluorfen	*0.05
Paraquat	*0.05
Pendimethalin	*0.05
Phorate	0.5
Piperonyl Butoxide	8
Pirimicarb	1
Procymidone	5
Prometryn	*0.1
Propachlor	2.5
Propargite	3
Propazine	*0.1
Pyrethrins	1
Sethoxydim	0.3
Tebuconazole	*0.01
Tetradifon	5
Thiometon	1
Trichlorfon	0.1

Chemical	MRL mg/kg
Trifluralin	0.05
Schedule 2 – Extraneous Residue Limits	
Chemical	MRL mg/kg
Chlordane	E0.02
DDT	E1
Heptachlor	E0.05
Lindane	E2

All fresh unprocessed garlic produced in Australia must adhere to Chapter 3 – Food Safety Standard.

There are no Primary Production and Processing Standard for Horticultural Produce at the time of drafting the documents.

Quarantine – extract from ICON on fresh garlic from all countries

Note: Where applicable, any additional requirements that are specific to this commodity will follow these conditions, and must be read in conjunction with the conditions outlined below.
1. An Import Permit is required and must be applied for prior to importation. Application forms can be sent to an AQIS Regional office for assessment.
2. A Quarantine Entry must be lodged for each consignment.
3. An original Phytosanitary certificate must accompany each consignment and must be correctly completed. Further information is available on the International Plant Protection Convention (IPPC) website at Phytosanitary certification guidelines. All consignments treated prior to export must have a commercial treatment certificate or a valid endorsement on the Phytosanitary certificate or as otherwise stated in the conditions of specific commodities.
4. All consignments must be free of live insects, disease symptoms, contaminant seeds, soil and other debris prior to arrival in Australia.
5. Each consignment must be packed in clean, new packaging.
6. Timber packaging, pallets or dunnage in Full Container Loads (FCL) containers or on flat racks will be subject to inspection and treatment on arrival, unless certified as having been treated by an AQIS approved method. (Refer to the AQIS publication, Cargo Containers – quarantine aspects and procedures).
7. Consignments that are not accompanied by a Phytosanitary certificate or are accompanied by a Phytosanitary certificate that is not endorsed correctly will be subject to re-export or destruction at the importer's expense.
8. All consignments (other than those pre-cleared in the country of origin under an arrangement approved by AQIS) are subject to inspection on arrival and any treatment necessary before release.
9. Inspection must occur at the first port of call. No land-bridging of consignments will be permitted unless the goods have cleared quarantine.

10. Open (door ajar) dry boxes that are used to ship produce that requires airing during transport are acceptable provided the containers are secured by replacing or closing the doors prior to movement from the wharf to the site of inspection. Alternative security can be provided by securely meshing, screening, covering with a heavy plastic sheet or tarping over the open containers.
11. The following packaging requirements must be adhered to for all fresh horticulture produce. AQIS will allow a grace period to enable these requirements to be fully implemented in the source country, following which (by written notice through ICON Public Quarantine Alert) the secure packaging requirements will be enforced by AQIS. Each consignment must be secured (i.e. made insect proof) prior to shipment to maintain its quarantine integrity on arrival. One of the following secure packaging options must be used to maintain the quarantine security of goods arriving in Australia.
a) Integral cartons
Produce may be packed in integral (fully enclosed) cartons with boxes having no ventilation holes and lids tightly fixed to the bases.
b) Ventilation holes of cartons covered
Cartons with ventilation holes must have the holes covered/sealed with a mesh/screen of no more than 1.6 mm pore size and not less than 0.16 strand thickness. Alternatively, the vent holes could be taped over.
c) Polythene liners
Vented cartons with sealed polythene liners within are acceptable (i.e. produce packed in polythene bags - folded polythene bags are acceptable).
d) Meshed or shrink wrapped pallets
Cartons with vent holes or gaps that are packed on a pallet, the pallet must be covered or wrapped with polythene/plastic/foil sheet or mesh/screen of no more than 1.6 mm diameter pore size and not less than 0.16 strand thickness.
e) Produce transported in sealed containers
Cartons with holes as loose boxes or on pallets may be transported in sealed containers. The container must be transported to the inspection point intact.
12. If unidentified or identified plant material other than the permitted commodity or contaminants including soil or seeds are found on inspection the consignment must be held and the contaminants removed or treated by an AQIS approved method (if possible) or the goods must be re-exported or destroyed at the importer's expense.
13. If live insects (excluding khapra beetle) are detected, the consignment must be held and treated by an AQIS approved method (if possible) or the goods must be re-exported or destroyed at the importer's expense.
14. If khapra beetle is detected, the consignment must be fumigated with methyl bromide at the khapra rate 80g/m^3 for 48 hours at 21^{o}C (T9056).

Condition C6013

1. The produce is subject to mandatory fumigation with methyl bromide at the rate of 40g/m³ for 3 hours at 21°C (T9040), or under vacuum at 32g/m³ for 2 hours at 21°C (T9070).

2. Importers are advised that under certain circumstances fumigation may cause damage to garlic. In such cases, importers have the option to re-export or destroy the consignment.
3. If the disease white rot is evident the consignment may be sorted, the diseased material removed and destroyed and the remainder released.

Treatment T9040

Methyl bromide

40g/m³ for 3 hours at 21ºC at Normal Atmospheric Pressure (NAP).

Add 8g/m³ for each 5ºC the temperature is expected to fall below 21ºC or subtract the 8g/m³ for each 5ºC the temperature increases above 21ºC during the fumigation. It is the minimum temperature during the course of the fumigation that is to be used for the calculation of the dose. Fumigation must not proceed if the temperature falls below 10°C.

Treatment T9070

Methyl bromide

32g/m^3 for 2 hours at 21^{o}C under vacuum (660mm vacuum).

Add 8g/m^3 for each 5^{o}C the temperature is expected to fall below 21^{o}C or subtract the 8g/m^3 for each 5^{o}C the temperature increases above 21^{o}C during the fumigation. It is the minimum temperature during the course of the fumigation that is to be used for the calculation of the dose. Fumigation must not proceed if the temperature drops below 10°C.

Import Permit Fee IPF0002

Import Permit Fees (where applicable) – Category 1

This commodity is classified as a Category 1 assessment for the purposes of determining the Import Permit fee rate that applies. The fee rate is $17.00 per assessable item.

Note that a manual lodgement fee of $100 also applies in addition to the assessment fee.

An assessable item means an item identified on a permit application as consisting of goods of a class imported, or to be imported, from a particular country for a particular use.

Appendix 11 – Food Standards Code and Quarantine (Thailand) requirements for fresh unprocessed pineapple

Food Standards Code

Standard 1.3.1 - Food Additives - does not permit the use of Food Additives in fresh unprocessed pineapple (schedule 1, Clause 4).

Standard 1.3.3 - Processing Aids - Clause 12 – lists the permitted bleaching agents, washing and peeling agents that may be used in the course of manufacture of fresh unprocessed pineapple.

Standard 1.4.1 - Contaminants and Natural Toxicants

- Clause 2 – Maximum level of metal contaminants – sets a Maximum Limit (ML) for Lead in Vegetables (except brassicas) of 0.1 mg/kg.
- Clause 3 – Maximum level of non-metal contaminants – sets a Maximum Limit (ML) for Acrylonitrile (All food) of 0.02 mg/kg and for Vinyl chloride (All food) of 0.01 mg/kg.

Standard 1.4.2 Maximum Residue Limits

An asterix '*' appearing in Schedules 1 or 2 listed below denotes that the maximum residue limit or the extraneous residue limit is set at or about the limit of determination.

A 'T' appearing in Schedules 1 or 2 denotes that the maximum residue limit or the extraneous residue limit is a temporary maximum residue limit or extraneous residue limit.

An 'E' appearing in Schedule 2 denotes an extraneous residue limit.

Schedule 1 – Maximum Residue Limits – Fresh unprocessed pineapple	
Chemical	MRL mg/kg
Ametryn	*0.05
Amitrole	*0.01
Bromacil	*0.04
Chlorpyrifos	T0.5
Cypermethrin	*0.01
Diazinon	0.5
Dichlorvos	0.1
Dicofol	5
Dimethoate	5

Chemical	MRL mg/kg
Diquat	*0.05
Dithianon	2
Diuron	0.5
2,2-Dichloropropionic Acid	*0.1
Ethephon	2
Fenitrothion	0.1
Fluazifop-Butyl	0.05
Fluometuron	*0.1
Fluorine (Inorganic Salts)	7
Fosetyl Aluminium	5
Glufosinate and Glufosinate-Ammonium	0.2
Haloxyfop	*0.05
Hexazinone	1
Inorganic Bromide	20
Lindane	0.5
Maldison	2
Metalaxyl	0.1
Metaldehyde	1
Methiocarb	T0.1
Methyl Bromide	T*0.05
Naphthalene Acetic Acid	1
Omethoate	2
Oryzalin	0.1
Oxyfluorfen	*0.01
Paclobutrazol	*0.01
Paraquat	*0.05
Pendimethalin	*0.05
2-Phenylphenol	10
Phosphoric acid	50
Piperonyl butoxide	8
Pirimicarb	0.5
Prochloraz	2
Propiconazole	0.05
Pyrethrins	1
Quizalofop-Ethyl	*0.05
Quizalofop-p-tefuryl	*0.05
Simazine	*0.1
Spinosad	T0.5
Tetradifon	5
Thiometon	1
Trichlorfon	0.1
Trifluralin	*0.05

Schedule 2 – Extraneous Residue Limits	
Chemical	MRL mg/kg
Aldrin and Dieldrin	E0.05
Chlordane	E0.02
DDT	E1
Heptachlor	E0.05

All fresh unprocessed pineapple produced in Australia must adhere to Chapter 3 – Food Safety Standard,

There are no Primary Production and Processing Standard for Horticultural Produce at the time of drafting the documents.

Quarantine – extract from ICON on fresh pineapples from Thailand (only)

Condition C6000

Note: Where applicable, any additional requirements that are specific to this commodity will follow these conditions, and must be read in conjunction with the conditions outlined below.
1. An Import Permit is required and must be applied for prior to importation. Application forms can be sent to an AQIS Regional office for assessment.
2. A Quarantine Entry must be lodged for each consignment.
3. An original Phytosanitary certificate must accompany each consignment and must be correctly completed. Further information is available on the International Plant Protection Convention (IPPC) website at Phytosanitary certification guidelines. All consignments treated prior to export must have a commercial treatment certificate or a valid endorsement on the Phytosanitary certificate or as otherwise stated in the conditions of specific commodities.
4. All consignments must be free of live insects, disease symptoms, contaminant seeds, soil and other debris prior to arrival in Australia.
5. Each consignment must be packed in clean, new packaging.
6. Timber packaging, pallets or dunnage in Full Container Loads (FCL) containers or on flat racks will be subject to inspection and treatment on arrival, unless certified as having been treated by an AQIS approved method. (Refer to the AQIS publication, Cargo Containers – quarantine aspects and procedures).
7. Consignments that are not accompanied by a Phytosanitary certificate or are accompanied by a Phytosanitary certificate that is not endorsed correctly will be subject to re-export or destruction at the importer's expense.
8. All consignments (other than those pre-cleared in the country of origin under an arrangement approved by AQIS) are subject to inspection on arrival and any treatment necessary before release.
9. Inspection must occur at the first port of call. No land-bridging of consignments will be permitted unless the goods have cleared quarantine.

10. Open (door ajar) dry boxes that are used to ship produce that requires airing during transport are acceptable provided the containers are secured by replacing or closing the doors prior to movement from the wharf to the site of inspection. Alternative security can be provided by securely meshing, screening, covering with a heavy plastic sheet or tarping over the open containers.
11. The following packaging requirements must be adhered to for all fresh horticulture produce. AQIS will allow a grace period to enable these requirements to be fully implemented in the source country, following which (by written notice through ICON Public Quarantine Alert) the secure packaging requirements will be enforced by AQIS. Each consignment must be secured (i.e. made insect proof) prior to shipment to maintain its quarantine integrity on arrival. One of the following secure packaging options must be used to maintain the quarantine security of goods arriving in Australia.
a) Integral cartons
Produce may be packed in integral (fully enclosed) cartons with boxes having no ventilation holes and lids tightly fixed to the bases.
b) Ventilation holes of cartons covered
Cartons with ventilation holes must have the holes covered/sealed with a mesh/screen of no more than 1.6 mm pore size and not less than 0.16 strand thickness. Alternatively, the vent holes could be taped over.
c) Polythene liners
Vented cartons with sealed polythene liners within are acceptable (i.e. produce packed in polythene bags - folded polythene bags are acceptable).
d) Meshed or shrink wrapped pallets
Cartons with vent holes or gaps that are packed on a pallet, the pallet must be covered or wrapped with polythene/plastic/foil sheet or mesh/screen of no more than 1.6 mm diameter pore size and not less than 0.16 strand thickness.
e) Produce transported in sealed containers
Cartons with holes as loose boxes or on pallets may be transported in sealed containers. The container must be transported to the inspection point intact.
12. If unidentified or identified plant material other than the permitted commodity or contaminants including soil or seeds are found on inspection the consignment must be held and the contaminants removed or treated by an AQIS approved method (if possible) or the goods must be re-exported or destroyed at the importer's expense.
13. If live insects (excluding khapra beetle) are detected, the consignment must be held and treated by an AQIS approved method (if possible) or the goods must be re-exported or destroyed at the importer's expense.
14. If khapra beetle is detected, the consignment must be fumigated with methyl bromide at the khapra rate 80g/m^3 for 48 hours at 21^{o}C (T9056).

Condition C9608

Registration

1. All pineapples for export to Australia must be sourced from plantations that have been registered by the National Plant Protection Organisation (NPPO) in the exporting country.

a) Plantations must be registered before exports can commence.
2. All pineapples for export to Australia must be fumigated either prior to export or on arrival in Australia.
a) Where fumigation is carried out prior to export, fumigation can only be undertaken in facilities that have been registered by the NPPO in the exporting country.
b) Registered fumigation facilities must comply with the current NPPO standards for export grade facilities before treatments can commence. They must also comply with the AQIS fumigation standard.

Area Freedom Requirement (for *Fusarium subglutinans* - fusariosis, fruitlet core rot)

3. All pineapples must be sourced from areas that have been demonstrated to be free from *Fusarium subglutinans* (Brazilian strain).
a) Australia currently recognise this country as being free of this disease however, any changes to the area freedom status must be notified immediately to Biosecurity Australia.
b) *Fusarium subglutinans* (Brazilian strain) currently occurs in Brazil and Bolivia.

In field control and trapping (for *Cryptophlebia leucotreta* - false codling moth)

4. All pineapples must be sourced from an area free from *Cryptophlebia leucotreta*, and substantiated using an in-field monitoring and control program (incorporating the use of pheromones).
a) Australia currently recognises this country as being free of this disease however, any changes to the area freedom status must be notified immediately to Biosecurity Australia.
b) *Cryptophlebia leucotreta* currently occurs in Israel and some African countries.

De-crowning

5. All pineapples must be de-crowned (i.e. fruit with crown and basal leaves removed) and only de-crowned fruit will be permitted entry. Consignments arriving with crowns intact will not be permitted entry and will be either re-exported or destroyed (at the importer's expense).

Fumigation (methyl bromide)

6. All pineapples imported into Australia must undergo mandatory fumigation with methyl bromide. Fumigation may be undertaken either prior to export (see option 1), or on arrival in Australia (see option 2). Fumigation with methyl bromide must be carried out for 2 hours according to the specification below:
a) 32g/m^3 at an air and pulp temperature of 21°C or above
b) 40g/m^3 at an air and pulp temperature of 16-20°C
c) 48g/m^3 at an air and pulp temperature of 11-15°C
d) 64g/m^3 at an air and pulp temperature of 10°C.
7. Pineapples must not be fumigated if the fruit pulp temperature is below 10°C. Loading ratio for the fumigation chamber must not exceed 80%.

Fumigation Option 1 (Pre Shipment Fumigation)

8. Fumigation must be completed under the supervision of the NPPO or an accredited certifying official at the facility.
9. All registered fumigation chambers used to treat pineapples for export to Australia must be tested to ensure that the chamber can deliver and maintain the required treatment and meet the relevant NPPO and AQIS methyl bromide fumigation standards. Testing records must be made available to AQIS upon request.
10. When a chamber has demonstrated its ability to hold gas via Fumiscope readings, commercial treatments can proceed subject to having successfully completed and verified three consecutive fumigation treatments. The gas concentrations in the first three fumigation events will be recorded by Fumiscope at three points in the chamber in the presence of inspectors from the NPPO.
11. Ten pallets selected at random from the consignment will have a sample package withdrawn (under NPPO supervision) to measure product temperature. Where product has been in cool storage, at least 2 sample packages will be drawn from the second or third layer (from the bottom of the pallet) and the pineapples will be selected from the centre of that package. The temperature of the fruit from each sample will be measured and recorded. The lowest temperature recorded from the number of pallets in the consignment will be the temperature used to calculate the methyl bromide dosage rate.
12. Pineapples must not be fumigated if the fruit pulp temperature is below 10°C.
13. Fumigation facilities must ensure that records identify each treatment lot and include details of the fumigation for each treated lot, including;
a) The number and identification of each pallet treated
b) The time and date of the treatment
c) The temperature data from each pallet tested
d) The lowest temperature recorded
e) The methyl bromide dosage rate used
f) The chamber capacity
g) The volume of product treated.
14. Fumigation facilities must ensure their systems will assure that the treated pineapples are kept segregated from all other produce at all times while on the premises.

Fumigation Option 2 (On arrival fumigation)

15. Only pineapples that have been produced in accordance with the conditions governing the entry of fresh pineapples into Australia will be permitted to undergo fumigation on arrival (in Australia).
16. Methyl bromide fumigations undertaken on-arrival in Australia will only be allowed in AQIS approved fumigation facilities.
17. Fumigation facilities must undergo fumigation testing and monitoring in accordance with the AQIS methyl bromide fumigation standard.
18. Fumigations must be conducted under AQIS supervision.
19. Security of the pineapples must be maintained at all times during transport from the port/airport to the fumigation facility, and during transfer of the pineapples from the container to the fumigation chamber to ensure entry or exit of pests is minimised.

a) Shipping seals must remain intact until checked by AQIS at the fumigation facility.
20. All pineapples must be kept segregated from any other imported, export, or domestic produce until they are cleared by AQIS.
21. If consignments are palletised, boxes must be stacked in such a way as to allow permeation and diffusion of fumigant.

Packaging and Labelling

22. Palletised produce must be identified by a uniquely numbered pallet card securely attached to each pallet or part pallet.
a) Pallet cards must contain the plantation registration number and the fumigation facility registered number.
b) Pallet cards must be securely attached to the pallet to withstand all handling. (Note: If pallet cards are not affixed or cannot be located on arrival in Australia, the pallet will not be considered to comply.)
23. Cartons on pallets must be stacked in such a way as to allow permeation and diffusion of the gas throughout the entire pallet.
24. No unprocessed packaging material of plant origin can be used.

Phytosanitary Inspection (Pre export)

25. All pineapple consignments must undergo a 600 unit inspection (i.e. 600 pineapples) by the NPPO
a) The inspection sample must be selected at random from throughout the consignment.
26. If any live quarantine pest, disease, or seed is found, the consignment is to be rejected for export to Australia. Copies of inspection records must be made available to AQIS upon request.

Storage and Product Security

27. Packed product and packaging must be protected from pest recontamination during and after packing, storage, fumigation, inspection, and transfer to the shipment point (i.e. at all distribution points).
28. Inspected lots must be maintained in secure conditions segregated by a minimum of 1 metre from rejected lots, non-inspected pineapples or other fruit.
29. If pineapples are not transported separately, an NPPO approved barrier (e.g. shrink wrap) must be inserted between pineapples intended for export to Australia and any other produce.

Phytosanitary Certification and Documentation

30. A Phytosanitary certificate must accompany each consignment exported to Australia. The following information must be provided in the Phytosanitary certificate:
a) An additional declaration stating: “The pineapples in this consignment have been produced in accordance with the conditions governing the entry of fresh pineapples from Thailand to Australia.”

b) The sea/air freight container number
c) The container seal number for sea freight consignments
d) Details of the preshipment methyl bromide fumigation treatment, including
- Dosage
- Treatment duration
- Fruit pulp temperature
- Date of treatment
- Name of the registered fumigation facility in the “Additional Information” section.
31. Where fumigation is to be performed on arrival in Australia, the following declaration is required in place of details at ‘a)’ above:
“Subject to methyl bromide fumigation in Australia.”

On arrival inspection in Australia

32. Each consignment must be inspected by AQIS on arrival in Australia.
33. Consignments fumigated prior to shipment that are found to be infested with live quarantine pests, diseases, or seeds will be treated, re-exported, or destroyed.
34. Where fumigation has not been carried out preshipment, inspection will be undertaken after on-arrival fumigation.

Review of Trade

35. The exporting country NPPO must inform AQIS immediately if any new pests of pineapples that are potentially of quarantine concern to Australia are detected in the exporting country.
36. Review of the above conditions will only be considered after the first full year of trade has been established for each exporting country.

Treatment T9030

Methyl bromide

32g/m³ for 2 hours at 21ºC at Normal Atmospheric Pressure (NAP).

Add 8g/m³ for each 5ºC the temperature is expected to fall below 21ºC or subtract the 8g/m³ for each 5ºC the temperature increases above 21ºC during the fumigation. The minimum temperature must be used to calculate the dose of the fumigant during the course of the fumigation. The minimum temperature during the course of the fumigation must be used for the calculation of the dose. Fumigation must not proceed if the temperature falls below 10°C.

Import Permit Fee IPF0002

Import Permit Fees (where applicable) – Category 1

This commodity is classified as a Category 1 assessment for the purposes of determining the Import Permit fee rate that applies. The fee rate is $17.00 per assessable item.

Note that a manual lodgement fee of $100 also applies in addition to the assessment fee.

An assessable item means an item identified on a permit application as consisting of goods of a class imported, or to be imported, from a particular country for a particular use.

Appendix 12 – Food Standards Code and Quarantine (USA) requirements for fresh unprocessed citrus

Food Standards Code

Standard 1.3.1 - Food Additives - does not permit the use of Food Additives in fresh unprocessed citrus fruit (schedule 1, Clause 4).

Citrus fruit are permitted to use surfaces treated additives: (Schedule 1 Clause 4 sub-clause 4.1.2).

342	Ammonium phosphates	GMP
473	Sucrose esters of fatty acids	100 mg/kg
901	Beeswax, white and yellow	GMP
903	Carnauba wax	GMP
904	Shellac	GMP
914	Oxidised polyethylene	250 mg/kg
1520	Propylene glycol	3000 mg/kg

Standard 1.3.3 - Processing Aids - Clause 12 – lists the permitted bleaching agents, washing and peeling agents that may be used in the course of manufacture of fresh unprocessed citrus.

Standard 1.4.1 - Contaminants and Natural Toxicants

- Clause 2 – Maximum level of metal contaminants – sets a Maximum Limit (ML) for Lead in Vegetables (except brassicas) of 0.1 mg/kg.
- Clause 3 – Maximum level of non-metal contaminants – sets a Maximum Limit (ML) for Acrylonitrile (All food) of 0.02 mg/kg and for Vinyl chloride (All food) of 0.01 mg/kg.

Standard 1.4.2 Maximum Residue Limits

An asterix '*' appearing in Schedules 1 or 2 listed below denotes that the maximum residue limit or the extraneous residue limit is set at or about the limit of determination.

A 'T' appearing in Schedules 1 or 2 denotes that the maximum residue limit or the extraneous residue limit is a temporary maximum residue limit or extraneous residue limit.

An 'E' appearing in Schedule 2 denotes an extraneous residue limit.

Schedule 1 – Maximum Residue Limits – Fresh unprocessed citrus	
Chemical	MRL mg/kg
Abamectin	0.01
Acephate	5
Aldicarb	0.05
Amitrole	*0.01
Azinphos-methyl	2
Bifenthrin	*0.05
Bromacil	*0.04
Buprifezin	2
Cadusafos	*0.01
Carbaryl	7
Carbendazim	10
Chlorpyrifos	T0.5
Cyhalothrin	*0.01
Cypermethrin	*0.01
2,4-D	5
Diazinon	0.7
Dichlobenil	0.1
Dichlorprop	T0.1
Dichlorvos	0.1
Dicofol	5
Dimethoate	5
Diofenolan	T0.5
Diquat	*0.05
Dithianon	2
Dithiocarbamates	T0.2
Diuron	0.5
2,2-Dichloropropionic Acid	*0.1
Endosulfan	T2
Ethion	1
Fenamiphos	*0.05
Fenbutatin Oxide - Fruit	5
Fenbutatin Oxide - Peel	30
Fenitrothion	0.1
Fethion	2
Fipronil	T*0.01
Fluazifop-Butyl	*0.02
Fluometuron	0.5
Fluorine (Inorganic Salts)	7
Glufosinate and Glufosinate-Ammonium	0.1
Glyphosate	0.5
Guazatine	5
Haloxyfop	*0.05

Chemical	MRL mg/kg
Imazalil	10
Imidacloprid	T0.5
Inorganic Bromide	30
Maldison	4
Metaldehyde	1
Methamidophos	0.5
Methidathion	2
Methiocarb	T0.1
Methomyl	1
Methyl Bromide	T*0.05
Norflurazon	0.2
Omethoate	2
Oryzalin	0.1
Paraquat	*0.05
Parathion-methyl	T1
Pendimethalin	*0.05
2-Phenylphenol	10
Phosphoric acid	100
Piperonyl butoxide	8
Pirimicarb	0.5
Promecarb	T1
Pyrethrins	1
Simazine	*0.1
Spinosad	T0.1
Tebufenozide	1
Tetradifon	5
Thiabendazole	10
Thiometon	1
Trichlorfon	0.1
Trifluralin	*0.05
Schedule 2 – Extraneous Residue Limits	
Chemical	MRL mg/kg
Aldrin and Dieldrin	E0.05
Chlordane	E0.02
DDT	E1
Heptachlor	E0.05
Lindane	E0.5

All fresh unprocessed citrus produced in Australia must adhere to Chapter 3 – Food Safety Standard,

There are no Primary Production and Processing Standard for Horticultural Produce at the time of drafting the documents.

Quarantine – extract from ICON on fresh sweet oranges from USA (only)

Condition C6000

Note: Where applicable, any additional requirements that are specific to this commodity will follow these conditions, and must be read in conjunction with the conditions outlined below.
1. An Import Permit is required and must be applied for prior to importation. Application forms can be sent to an AQIS Regional office for assessment.
2. A Quarantine Entry must be lodged for each consignment.
3. An original Phytosanitary certificate must accompany each consignment and must be correctly completed. Further information is available on the International Plant Protection Convention (IPPC) website at Phytosanitary certification guidelines. All consignments treated prior to export must have a commercial treatment certificate or a valid endorsement on the Phytosanitary certificate or as otherwise stated in the conditions of specific commodities.
4. All consignments must be free of live insects, disease symptoms, contaminant seeds, soil and other debris prior to arrival in Australia.
5. Each consignment must be packed in clean, new packaging.
6. Timber packaging, pallets or dunnage in Full Container Loads (FCL) containers or on flat racks will be subject to inspection and treatment on arrival, unless certified as having been treated by an AQIS approved method. (Refer to the AQIS publication, Cargo Containers – quarantine aspects and procedures).
7. Consignments that are not accompanied by a Phytosanitary certificate or are accompanied by a Phytosanitary certificate that is not endorsed correctly will be subject to re-export or destruction at the importer's expense.
8. All consignments (other than those pre-cleared in the country of origin under an arrangement approved by AQIS) are subject to inspection on arrival and any treatment necessary before release.
9. Inspection must occur at the first port of call. No land-bridging of consignments will be permitted unless the goods have cleared quarantine.
10. Open (door ajar) dry boxes that are used to ship produce that requires airing during transport are acceptable provided the containers are secured by replacing or closing the doors prior to movement from the wharf to the site of inspection. Alternative security can be provided by securely meshing, screening, covering with a heavy plastic sheet or tarping over the open containers.
11. The following packaging requirements must be adhered to for all fresh horticulture produce. AQIS will allow a grace period to enable these requirements to be fully implemented in the source country, following which (by written notice through ICON Public Quarantine Alert) the secure packaging requirements will be enforced by AQIS. Each consignment must be secured (i.e. made insect proof) prior to shipment to maintain its quarantine integrity on arrival. One of the following secure packaging options must be used to maintain the quarantine security of goods arriving in Australia.

a) Integral cartons
Produce may be packed in integral (fully enclosed) cartons with boxes having no ventilation holes and lids tightly fixed to the bases.
b) Ventilation holes of cartons covered
Cartons with ventilation holes must have the holes covered/sealed with a mesh/screen of no more than 1.6 mm pore size and not less than 0.16 strand thickness. Alternatively, the vent holes could be taped over.
c) Polythene liners
Vented cartons with sealed polythene liners within are acceptable (i.e. produce packed in polythene bags - folded polythene bags are acceptable).
d) Meshed or shrink wrapped pallets
Cartons with vent holes or gaps that are packed on a pallet, the pallet must be covered or wrapped with polythene/plastic/foil sheet or mesh/screen of no more than 1.6 mm diameter pore size and not less than 0.16 strand thickness.
e) Produce transported in sealed containers
Cartons with holes as loose boxes or on pallets may be transported in sealed containers. The container must be transported to the inspection point intact.
12. If unidentified or identified plant material other than the permitted commodity or contaminants including soil or seeds are found on inspection the consignment must be held and the contaminants removed or treated by an AQIS approved method (if possible) or the goods must be re-exported or destroyed at the importer's expense.
13. If live insects (excluding khapra beetle) are detected, the consignment must be held and treated by an AQIS approved method (if possible) or the goods must be re-exported or destroyed at the importer's expense.
14. If khapra beetle is detected, the consignment must be fumigated with methyl bromide at the khapra rate 80g/m^3 for 48 hours at 21^{o}C (T9056).

Condition C6109
1. Entry is only permitted from Arizona, California, and Texas in the USA.

Condition C6026
USA citrus: pre-cleared - or on arrival inspection

1. Citrus from the United States of America may be inspected (precleared) offshore by AQIS, applicable for fruit grown in California only, or inspected on arrival in Australia.

Precleared citrus from California

Background

2. Where offshore preclearance inspection is undertaken, this inspection replaces the quarantine inspection normally undertaken by AQIS at the port of arrival in Australia.
a) Produce that can be identified as being precleared is not subject to further inspection on arrival in Australia. Precleared pallets and cartons are subject to a verification check against the accompanying documentation.

Preclearance documentation requirements

3. All fresh citrus that has been inspected offshore must be clearly labelled and legibly identified by pallet numbers or grower lot numbers on a “Notice of Intention to Export” (NOI). A copy of the relevant NOI/s must be forwarded to Australia with the original Phytosanitary certificate accompanying the consignment. All consignments must also be accompanied by a Phytosanitary certificate with the additional declarations, incorporating two mandatory preclearance declarations and one fruit fly declaration, as described below.

Mandatory additional declarations for precleared produce

4. Each consignment must be accompanied by an original Phytosanitary certificate endorsed with the following additional declarations:
a) “The citrus fruits in this consignment have been produced in California in accordance with the conditions governing the entry of fresh citrus fruits from California to Australia.” **and**
b) “AQIS pre-clearance inspection undertaken in California in accordance with the Work Plan for the pre-clearance of citrus fruits to Australia.”

Fruit fly additional declarations

5. The Phytosanitary certificate must also have one of the following fruit fly additional declarations in addition to both of the additional declarations listed above at 4 a) and b).
a) "The fruit in this consignment was sourced and packed in California which is free of all exotic fruit flies." **or**
b) "The fruit in this consignment was sourced and packed in [*name of Californian County*] which is an area free of all exotic fruit flies." **or**
c) "The fruit in this consignment was sourced and packed in [*name of Californian County*] which is an area located in excess of 15 kilometres from the epicentre of any exotic fruit fly declared areas, including Mediterranean fruit fly (*Ceratitis capitata*).” **or**
d) "The fruit has been stored for 14 days at 0°C ± 0.5°C".

Product identification

6. All precleared product must be identified by one of the two following means:
a) A pallet card or sticker attached to each whole pallet or part pallet where applicable. Each pallet card or sticker must be uniquely numbered or include information to enable traceback i.e. grower lot codes, **or**
b) Each individual carton can marked with the relevant lot code i.e. grower lot number or a similar identifying mark.
7. Pallet cards or stickers must be securely fastened to the pallet to withstand handling encountered during handling and shipping.
a) If pallet cards cannot be located on pallets on arrival, in Australia the pallet will not be considered pre-cleared and will be subject to on arrival inspection.

b) If individual cartons are labelled with lot codes (instead of pallet cards), those cartons without lot numbers will not be considered pre-cleared and will be subject to on arrival inspection.

Notice of Intention (NOI) information

8. Copies of the relevant NOIs listing the inspected and passed pallet numbers or lot codes in the consignment must be attached to the Phytosanitary certificate.
a) The NOI must be signed and stamped by an AQIS officer.
b) The NOI must be marked as "passed" by an AQIS officer.
c) All passed pallets or cartons in the consignment should be identified on the NOI by underlining, circling or otherwise marking the pallet card or grower lot numbers, preferably with an ink pen. The use of a highlighter pen should be avoided as the highlights may not be detected on a photocopy or facsimile.

Clearance procedures

9. Pre-cleared citrus accompanied by the correct documentation as detailed above, will not be subject to a product inspection in Australia and can be cleared on documents. However, physical verification inspection of documentation against the actual pallet card or grower lot numbers in a consignment will be conducted by AQIS on-arrival to monitor compliance with the offshore inspection arrangements (see Physical verification procedures below).
a) Physical verification of identifying marks on pallets or cartons against the accompanying documents will occur at the rate of 1 consignment in 10.
10. Should any discrepancy be found with the produce or certification (indicating a possible system breakdown), the produce will be detained until AQIS Plant Programs, Canberra office can determine the cause of the breakdown and advise appropriate remedial action. Corrective action in Australia may include further inspection, treatment or re-shipment.

Physical verification procedures

11. AQIS will physically verify the Phytosanitary documentation and NOIs with pallet cards at the rate of 1 consignment in 10, in lieu of clearance on documentation. Physical verification ensures continued compliance with the preclearance procedures.
a) Container numbers and seal numbers will be checked where applicable.
b) Note: due to the preclearance inspection, it may not be possible for the container and seal numbers to be known at the time of inspection in order for them to be included on the Phytosanitary certificate. If the container and seal number are not included on the Phytosanitary certificate, the commercial documentation (i.e. Bill of Lading) must contain the container and seal numbers, and must also note the Phytosanitary certificate number which will provide the required link between the produce and the preclearance documentation.

12. Pallet cards or grower lot codes will be checked against the NOI attached to the Phytosanitary certificate. The NOI must indicate the precleared pallets in the consignment.
a) Where individual boxes are marked with pallet cards, stickers, or lot code numbers- on arrival verification will be aided if the identifying marks are placed facing outwards so they are easily visible.
13. Pallets or cartons verified as corresponding with the NOI as being precleared are not subject to product inspection in Australia.
14. If documentation does not align with the physical labelling, the consignment will be held until AQIS or the Animal and Plant Health Inspection Service (APHIS) [USA] can resolve the problem.

Non-precleared citrus from Arizona, California or Texas

Non-precleared documentation requirements

15. Each consignment must be accompanied by an original Phytosanitary certificate endorsed with one of the following fruit fly additional declarations:
a) "The fruit in this consignment was sourced and packed in [*name of State*] which is free of all exotic fruit flies." or
b) "The fruit in this consignment was sourced and packed in [*name of County*] which is an area free of all exotic fruit flies." or
c) "The fruit in this consignment was sourced and packed in [*name of County*] which is an area located in excess of 15 kilometres from the epicentre of any exotic fruit fly declared areas, including Mediterranean fruit fly (*Ceratitis capitata*)." or
d) "The fruit has been stored for 14 days at 0°C ± 0.5°C".
16. Container numbers must be endorsed on the phytosanitary certificates, seal numbers should be endorsed either on the Phytosanitary certificates or on relevant commercial documentation.
17. No citrus will be permitted for the remainder of the current season from any USA growers or packers that have been suspended by the Animal and Plant Health Inspection Service (APHIS) during the current citrus season.

Treatment T9901
Treatment is required when goods are found to be infested or contaminated with live quarantine pests. An appropriate treatment (or treatment options) will be determined by AQIS, in consideration of the pest or pests requiring treatment.

Treatment T9030

Methyl bromide

32g/m³ for 2 hours at 21ºC at Normal Atmospheric Pressure (NAP).
Add 8g/m³ for each 5ºC the temperature is expected to fall below 21ºC or subtract the 8g/m³ for each 5ºC the temperature increases above 21ºC during the fumigation. The minimum temperature must be used to calculate the dose of the fumigant during the course of the fumigation. The minimum temperature during the course of the fumigation

must be used for the calculation of the dose. Fumigation must not proceed if the temperature falls below 10°C.

Treatment T9603

Cold storage

The flesh temperature of the fruit must be maintained at 0ºC ± 0.5ºC for not less than 14 consecutive days.

Import Permit Fee IPF0002

Import Permit Fees (where applicable) – Category 1

This commodity is classified as a Category 1 assessment for the purposes of determining the Import Permit fee rate that applies. The fee rate is $17.00 per assessable item.

Note that a manual lodgement fee of $100 also applies in addition to the assessment fee.

An assessable item means an item identified on a permit application as consisting of goods of a class imported, or to be imported, from a particular country for a particular use.

Appendix 13 - Tolerances established for pesticide chemicals in US sweet oranges

Tolerances established for pesticide chemicals in US sweet oranges were extracted from the Electronic Code of Federal Regulations - Title 40: Protection of Environment - Part 180 – Tolerances and exemptions from tolerances for pesticide chemicals in food.

No warranty is taken by the consultant for the compilation of this list and is presented for information purposes only.

Code of Federal Regulations	Common Name	Commodity	Tolerance parts per million
180.106	Diuron	Fruit, citrus	1
180.111	Malathion	Orange, sweet	8
180.114	Ferbam	Fruit, citrus	7
180.123	Inorganic bromide	Oranges, postharvest	30
180.127	Piperonyl butoxide	Oranges, postharvest	8
180.128	Pyrethrins	Oranges, postharvest	1
180.129	O-Phenylphenol and its sodium salt	Oranges, sweet	10
180.130	Hydrogen cyanide	Fruits, citrus	50
180.142	2,4-D	Fruits, citrus	5
180.144	Cyhexatin	Orange, juice	0.1[1]
180.145	Fluoride	Fruit, citrus	7
180.153	Diazinon	Citrus	0.7
180.154	O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)methylphosphodithionate	Fruit, citrus, group 10	2.0
180.155	1-Naphthaleneacetic acid	Orange, sweet	0.1
180.163	1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethanol	Orange, sweet	10
180.173	Ethion	Fruit, citrus, group 10	5[2]
180.174	Tetradifon	Orange, sweet	2
180.204	Dimethoate including its oxygen analogue	Orange, sweet	2
180.205	Paraquat	Fruit, citrus	0.05 (N)
180.207	Trifluralin	Fruit, citrus, group 10	0.05
180.210	Bromacil	Fruit, citrus	0.1
180.213	Simazine	Orange, sweet	0.25
180.215	Naled	Orange, sweet	3
180.225	Phosphine	Orange, sweet	0.01
180.226	Diquat[3]	Fruit, citrus, group 10	0.02
180.242	Thiabendazole	Fruit, citrus, postharvest	10
180.253	Methomyl	Orange, sweet	2

Code of Federal Regulations	Common Name	Commodity	Tolerance parts per million
180.259	Propargite	Orange, sweet	5
180.261	N-(Mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorodithioate)	Fruit, citrus	5
180.269	Aldicarb	Orange, sweet	0.3
180.276	Formetanate hydrochloride	Orange, sweet	4
180.289	Methanearsonic acid	Fruit, citrus	0.35
180.294	Benomyl	Fruit, citrus, postharvest	10.0[4]
180.298	Methidathion	Fruit, citrus (except mandarins)	2
180.303	Oxamyl	Fruit, citrus	3
180.304	Oryzalin	Fruit, citrus	0.05
180.328	N,N-Diethyl-2-(1-naphthalenyloxy) propionamide	Fruit, citrus	0.1 (N)
180.330	S-[2-(Ethylsulfinyl)ethyl] O,O-dimethyl phosphorothioate	Orange, sweet	1
180.342	Chlorpyrifos	Fruit, citrus	1
180.349	Fenamiphos	Orange, sweet	0.6
180.356	Norflurazon	Fruit, citrus	0.2
180.362	Hexakis (2-methyl-2-phenylpropyl) distannoxane	Fruit, citrus	20
180.364	Glyphosate	Fruit, citrus, group 10	0.5
180.371	Thiophanate-methyl	Citrus	0.5[5]
180.377	Diflubenzuron	Orange, sweet	0.5
180.408	Metalaxyl	Fruit, citrus	1
180.412	Sethoxydim	Fruit, citrus	0.5
180.413	Imazalil	Fruit, citrus, postharvest	10
180.415	Aluminium tris (O-ethylphosphonate)	Fruit, citrus, group 10	5
180.420	Fluridone	Citrus	0.1[6]
180.436	Cyfluthrin	Fruit, citrus, group 10	0.2
180.442	Bifenthrin	Fruit, citrus, group 10	0.05
180.449	Avermectin B1	Citrus	0.02
180.466	Fenpropathrin	Fruit, citrus, group 10	2
180.467	Carbon disulfide	Orange, sweet	0.1
180.472	Imidacloprid	Citrus, fruit, group	0.7
180.482	Tebufenozide	Fruit, citrus, group 10	0.8
180.489	Sulfosate (Sulfonium, trimethyl-salt with N-(phosphonomethyl)glycine (1:1)	Citrus, fruit, group	0.05
180.494	Pyridaben	Citrus	0.5
180.495	Spinosad	Fruit, citrus group	0.3
180.496	Thiazopyr	Orange, sweet	0.05

Code of Federal Regulations	Common Name	Commodity	Tolerance parts per million
180.507	Azoxystrobin	Fruit, citrus, group 10	1
180.510	Pyriproxyfen	Fruit, citrus	0.3
180.511	Buprofezin	Fruit, citrus, group 10	2.5
180.515	Carfentrazone-ethyl	Fruit, citrus, group 10	0.1
180.516	Fludioxonil	Citrus, crop group 10	10
180.518	Pyrimethanil	Fruit, citrus, group 10 Postharvest	10
180.555	Trifloxystrobin	Fruit, citrus, group 10	0.3
180.558	N,N-diethyl-2-(4-methylbenzyloxy) ethylamine hydrochloride	Orange, sweet	0.01
180.578	Acetamiprid	Fruit, citrus group	0.5
180.582	Pyraclostrobin	Fruit, citrus, group 10	2
180.591	Trifloxysulfuron	Fruit, citrus, group 10	0.03
180.599	Acequinocyl	Fruit, citrus, group 10	0.2
180.608	Spirodiclofen	Fruit, citrus, group 10	0.5

1 Expiration/revocation date 13/6/2009
2 Expiration/revocation date 1/10/2008
3 Tolerances are established for residues of diquat (6,7-dihydrodipyrido(1,2-a:2,1-c) pyrazinediium (calculated as the cation) derived from the application of the dibromide salt to ponds, lakes, reservoirs, marshes, drainage ditches, canals, streams and rivers are slow-moving or quiescent in programs of the Corps of Engineers, or other Federal or State public agencies and to ponds, lakes, and drainage ditches only where there is little or no outflow of water and which are totally under the control of the user, in or on the following food commodity.
4 Expiration/revocation date 1/1/2008
5 *Section 18 emergency exemptions*. Time-limited tolerances are established for the thiophanate-methyl and its metabolite (methyl 2-benzimidazoyl carbamate (MBC)) in connection with the use of this pesticide under section 18 emergency exemptions granted by EPA. The tolerances specified for citrus will expire and will be revoked on 30/6/2007.
6 Tolerances established in irrigated citrus for residues of the herbicide fluridone resulting from the use of irrigation water containing residues of 0.15 ppm following application on or around aquatic sites.