

AUSTRALIA AND NEW ZEALAND FOOD REGULATION MINISTERIAL COUNCIL

28 NOVEMBER 2008

**FOOD MINISTERS REQUEST A REVIEW OF VARIATION TO THE
FOOD STANDARDS CODE THAT HAS RESULTED FROM PROPOSAL
P1002 - HYDROCYANIC ACID IN READY-TO-EAT CASSAVA CHIPS**

The Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) has requested that Food Standards Australia New Zealand (FSANZ) review the variation to Food Standards Code that has resulted from Application **P1002 – Hydrocyanic Acid in Ready-to-Eat Cassava Chips**.

The Criteria/Ground/s for the review of variation is that:

- it places an unreasonable cost burden on industry or consumers; and

It is believed that a maximum level (ML) of 10 mg/kg for 'hydrocyanic acid, total' is a conservatively derived figure. It is suggest that there are more than sufficient redundancies in its derivation to be comfortable with the alternative ML of 25 mg/kg which the industry indicates it can meet.

- it is difficult to enforce (and/) or comply with in both practical or resource terms.

The development of a standard and the implementation and enforcement of that standard are complementary. It is considered unacceptable for a standard to be developed without an appropriate scientifically validated methodology for testing a product against the standard determined and agreed to.

FSANZ has 3 months to review the draft standard and re-affirm, re-affirm with amendments, or withdraw its approval of the draft standard.

The process for requesting a review

After Food Standards Australia New Zealand (FSANZ) notifies the Australia and New Zealand Food Regulation Ministerial Council (the Council) of a draft standard or variation the Council may request a review if any jurisdiction believes that one or more of the Criteria/Ground/s¹ set out in the Food Regulation Agreement 2000 (as amended in 2002) (the Agreement) or the Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System (the Treaty) applies. The Criteria / Ground/s set out in the Agreement and in the Treaty are:

- (i) it is not consistent with existing policy guidelines set by the Ministerial Council;
- (ii) it is not consistent with the objectives of the legislation which establishes FSANZ;
- (iii) it does not protect public health and safety;
- (iv) it does not promote consistency between domestic and international food standards where these are at variance;
- (v) it does not provide adequate information to enable informed choice;
- (vi) it is difficult to enforce or comply with in both practical or resource terms; and / or
- (vii) it places an unreasonable cost burden on industry or consumers.

In exercising this power the Council must comply with the Agreement and the Treaty. Under the Agreement the Council will request a review if any jurisdiction considers that one or more of the Criteria applies. The Council would also, at this point in the process, request a review if New Zealand notifies the Council of concerns that the standard would be inappropriate for New Zealand (Annex C(2) of the Treaty).

If such a review is undertaken and the Council receives notice from FSANZ that the draft standard or variation has been reaffirmed (either entirely or subject to amendments) the Council may request a second¹ review. In exercising this power the Council must comply with the Agreement. Under the Agreement the Ministerial Council will request FSANZ to review the draft standard or variation a second time if it is agreed, by a majority vote, that one or more of the Criteria applies.

¹ This part of the protocol will have to be updated once the 'Agreement between the Government of Australia and the Government of New Zealand Establishing a System for the Development of Joint Food Standards' (the Treaty) has been amended to reduce from two to one the number of occasions on which the Council may request the Authority to review a draft or a variation to a standard. This will harmonize it with the Food Standards Australia New Zealand Amendment Act 2007.