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21 May 2003

INITIAL ASSESSMENT REPORT

APPLICATION A485

EXTENSION OF STOCK-IN-TRADE PROVISIONS FOR THE LABELLING OF WINE

DEADLINE FOR PUBLIC SUBMISSIONS to the Authority in relation to this matter:

2 July 2003

(See 'Invitation for Public Submissions' for details)

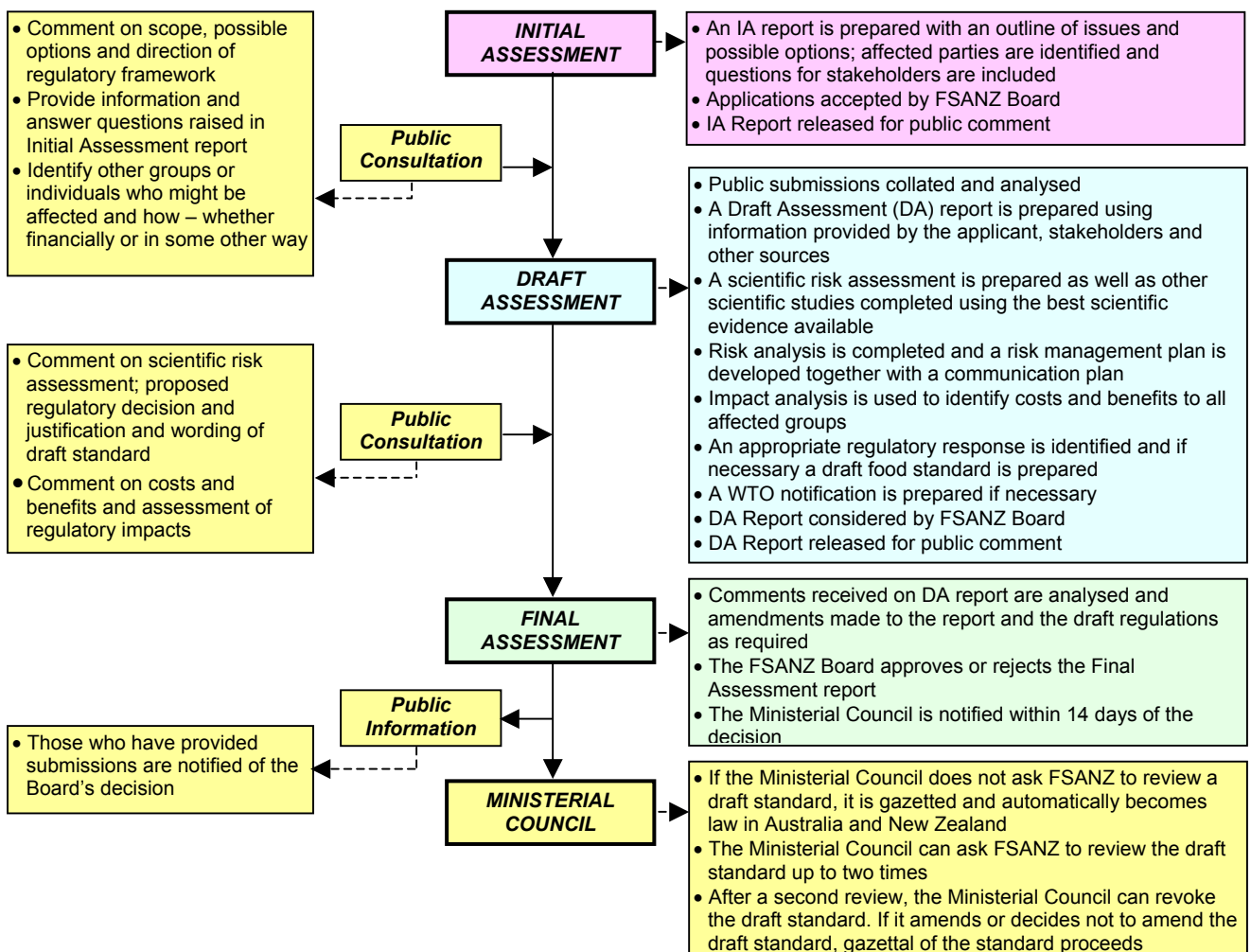
FOOD STANDARDS AUSTRALIA NEW ZEALAND (FSANZ)

FSANZ's role is to protect the health and safety of people in Australia and New Zealand through the maintenance of a safe food supply. FSANZ is a partnership between ten governments: the Commonwealth; Australian States and Territories; and New Zealand. It is a statutory authority under Commonwealth law and is an independent, expert body.

FSANZ is responsible for developing, varying and reviewing standards and for developing codes of conduct with industry for food available in Australia and New Zealand covering labelling, composition and contaminants. In Australia, FSANZ also develops food standards for food safety, maximum residue limits, primary production and processing and a range of other functions including the coordination of national food surveillance and recall systems, conducting research and assessing policies about imported food.

The FSANZ Board approves new standards or variations to food standards in accordance with policy guidelines set by the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) made up of Commonwealth, State and Territory and New Zealand Health Ministers as lead Ministers, with representation from other portfolios. Approved standards are then notified to the Ministerial Council. The Ministerial Council may then request that FSANZ review a proposed or existing standard. If the Ministerial Council does not request that FSANZ review the draft standard, or amends a draft standard, the standard is adopted by reference under the food laws of the Commonwealth, States, Territories and New Zealand. The Ministerial Council can, independently of a notification from FSANZ, request that FSANZ review a standard.

The process for amending the *Australia New Zealand Food Standards Code* is prescribed in the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). The diagram below represents the different stages in the process including when periods of public consultation occur. This process varies for matters that are urgent or minor in significance or complexity.



INVITATION FOR PUBLIC SUBMISSIONS

The Authority has prepared an Initial Assessment Report of Application A485, which includes the identification and discussion of the key issues.

The Authority invites public comment on this Initial Assessment Report for the purpose of preparing an amendment to the *Australia New Zealand Food Standards Code* for approval by the FSANZ Board.

Written submissions are invited from interested individuals and organisations to assist the Authority in preparing the Draft Assessment for this Application. Submissions should, where possible, address the objectives of the Authority as set out in section 10 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). Information providing details of potential costs and benefits of the proposed change to the *Australia New Zealand Food Standards Code* from stakeholders is highly desirable. Claims made in submissions should be supported wherever possible by referencing or including relevant studies, research findings, trials, surveys etc. Technical information should be in sufficient detail to allow independent scientific assessment.

The processes of the Authority are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of the Authority and made available for inspection. If you wish any information contained in a submission to remain confidential to the Authority, you should clearly identify the sensitive information and provide justification for treating it as commercial-in-confidence. Section 39 of the FSANZ Act requires the Authority to treat in-confidence, trade secrets relating to food and any other information relating to food, the commercial value of which would be, or could reasonably be expected to be, destroyed or diminished by disclosure.

Submissions must be made in writing and should clearly be marked with the word 'Submission' and quote the correct project number and name. Submissions may be sent to one of the following addresses:

Food Standards Australia New Zealand
PO Box 7186
Canberra BC ACT 2610
AUSTRALIA
Tel (02) 6271 2222
www.foodstandards.gov.au

Food Standards Australia New Zealand
PO Box 10559
The Terrace WELLINGTON 6036
NEW ZEALAND
Tel (04) 473 9942
www.foodstandards.govt.nz

Submissions should be received by the Authority by **2 July 2003**. Submissions received after this date may not be considered, unless the Project Manager has given prior agreement for an extension. While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website using the Standards Development tab and then through Documents for Public Comment. Questions relating to making submissions or the application process can be directed to the Standards Liaison Officer at the above address or by emailing slo@foodstandards.gov.au.

Assessment reports are available for viewing and downloading from the FSANZ website or alternatively paper copies of reports can be requested from the Authority's Information Officer at either of the above addresses or by emailing info@foodstandards.gov.au including

other general enquiries and requests for information.

Further Information

Further information on this Application and the assessment process should be addressed to the FSANZ Standards Liaison Officer at one of the following addresses:

Food Standards Australia New Zealand
PO Box 7186
Canberra BC ACT 2610
AUSTRALIA
Tel (02) 6271 2222
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Executive Summary and Statement of Reasons

FSANZ introduced stock-in-trade provisions in the *Australia New Zealand Food Standards Code* (the *Code*) in September 2002. These provisions allow food with a shelf life of more than 12 months, manufactured and packaged prior to 20 December 2002 in compliance with applicable food standards at the time, to be lawfully sold until 20 December 2004.

While the intent of the long shelf-life stock-in-trade provisions is to allow the continued sale of long shelf-life food products manufactured and packaged, and legally produced during and prior to the transition period, consideration was not given to products such as bottled and labelled wine that have a very long-shelf life and can remain in circulation for many years.

Currently, wine and wine products with a long-shelf life, manufactured and packaged prior to 20 December 2002 in compliance with the applicable food standards at that time can only continue to be sold until 20 December 2004, as from this date the stock-in-trade provisions will cease to have effect. Unless relabelled these products will become illegal.

The Winemakers Federation of Australia, the New Zealand Winegrowers and the Australian Wine and Brandy Corporation have therefore applied to indefinitely extend the stock-in-trade provisions for long-shelf life wine and wine products in order for these products to be able to be legally sold after the expiration of the long-shelf life stock-in-trade provisions on 20 December 2004.

Objectives

The specific objectives in assessing Application A485 are to examine the extent of possible effects on public health and safety should the stock-in-trade provisions for long-shelf life wine and wine products prior to the 2003 vintage, be indefinitely extended; and to ensure that the labelling requirements that may result from an indefinite extension of the stock-in-trade provisions for long-shelf life wine and wine products prior to the 2003 vintage do not adversely affect the ability of consumers to make informed choices.

Regulatory Options and Impact Analysis

There are two options for progressing the Application at Initial Assessment.

1. Maintain the status quo and retain the prohibition of the sale after 20 December 2004 of all long-shelf life products not compliant with the *Food Standards Code*, or
2. Amend Standard 1.1.1 to allow the indefinite sale of wine and wine products covered by Application A485 that were produced prior to 20 December 2002 in compliance with the applicable food standards at that time.

For each regulatory option, an impact analysis has been undertaken to assess the potential costs and benefits to various stakeholder groups associated with its implementation.

Conclusion and recommendation

The progress and direction of A485 will be guided by information received through the public consultation process. Public submissions are now invited from all sectors of the community including industry, consumers and governments in response to this Initial Assessment Report.

1. Introduction

1.1 Nature of Application

On 4 November 2002, the Winemakers Federation of Australia, the New Zealand Winegrowers and the Australian Wine and Brandy Corporation submitted an application to FSANZ seeking an amendment to sub-clause 1(4) of Standard 1.1.1- Preliminary Provisions – Application, Interpretation and General Prohibitions, to indefinitely extend the two-year, long-shelf life stock-in-trade provisions, for table wine, sparkling wine and fortified wine that were bottled prior to the 2003 vintage and are labelled with a vintage date¹. The Application, A485, does not include other alcoholic beverages such as non-vintage wine products that do not possess a vintage date, or other alcoholic beverages that are matured in large quantities and are bottled and labelled after maturation, such as spirits.

1.2 Current Regulations

FSANZ introduced stock-in-trade provisions in September 2002. Sub-clause 1(4) of Standard 1.1.1 provides that food with a shelf life of more than 12 months (long shelf-life food products), that were manufactured and packaged prior to 20 December 2002 in compliance with applicable food standards at the time, can continue to be lawfully sold until December 2004.

An Initial Assessment of the Application has been completed and public comment is now being sought to assist in the Draft Assessment of the Application.

2. Regulatory Problem

2.1 Labelling Requirements of Wine and Wine Products

The only labelling requirements that differ between the new *Code* and the old *Australia Food Standards Code*², in relation to wine and wine products are the additional labelling requirements for substances that may cause severe adverse reactions in sensitive individuals.

Under the *Code* certain substances that may cause severe adverse reactions in sensitive individuals are required to be declared in accordance with Clause 4 of Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations. These substances are cereals containing gluten and their products, crustacea and their products, egg and egg products, fish and fish products, milk and milk products, tree nuts and sesame seeds and their products, peanuts and soybeans and their products as well as added sulphites in concentrations of 10mg/kg or more. However, under the old *Australian Food Standards Code* only sulphur dioxide in a proportion exceeding 25mg/kg due to the presence of sulphur dioxide in an ingredient, was required to be declared.

In the wine production process, substances derived from egg, fish and milk may be used as a fining agent. While these products are largely removed through filtration, very small residual

¹ The vintage date is the year in which the grapes were harvested.

² For the purpose of comparison, the old *Australian Food Standards Code* has been used. However, the labelling requirements for wine and wine products under the *New Zealand Food Regulations (1984)* were the same.

amounts may be present in the final product. Additionally, tannin derived from chestnuts is sometimes used as a wine additive, as is sulphur dioxide and its derivatives. This means that for wine and wine products produced under the *Code*, these substances are required to be declared on the label if present.

In accordance with the stock-in-trade provisions, wine and wine products with a long-shelf life that were manufactured and packaged prior to 20 December 2002 in compliance with the applicable food standards at that time can only continue to be sold until 20 December 2004, as from this date the stock-in-trade provisions will cease to have effect. This means that vintage wine and wine products produced under the old Australian *Food Standards Code* and the New Zealand *Food Regulations (1984)* can not be legally sold after 20 December 2004 unless they fully comply with the *Code*.

The Winemakers Federation of Australia, the New Zealand Winegrowers and the Australian Wine and Brandy Corporation have therefore applied to indefinitely extend the stock-in-trade provisions for long-shelf life wine and wine products in order for these products to be able to be legally sold after the expiration of the long-shelf life stock-in-trade provisions on 20 December 2004.

2.2 Public health risks

The policies underpinning the *Code* aim to protect public health and safety while facilitating industry innovation in the market, and hence improving consumer choice. The aim when developing the *Code* was to create new standards that reduce the regulatory burden on industry and reflect the advances in scientific knowledge in areas such as nutrition, toxicology and allergenicity.

During the review of the old Australian *Food Standards Code*, it was confirmed that the mandatory declaration of the presence of substances in food that may cause severe adverse reactions was justified on the basis of protecting the health and safety of people who are sensitive to these foods. In the case of alcoholic beverages, it was determined that alcoholic beverages standardised in Part 2.7 of the *Code* should be exempt from ingredient labelling because the ingredients that go into the food are not representative of the contents of the final product.

If the Application is accepted, that is there is an extension of the stock-trade-provisions indefinitely for long-shelf life wine and wine products, there may be implications for sensitive individuals that may suffer from severe adverse reactions from the tannin derived from chestnuts and the fining agents derived from egg, fish and milk, as these substances will not be identified on the label of wines produced prior to the 2003 vintage. Although, the fining agents are removed through filtration, very small residual amounts may be present in the final product.

3. Objective

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives which are set out in section 10 of the *Food Standards Australia New Zealand Act 1991*. These are:

- the protection of public health and safety;
- the provision of adequate information relating to food to enable consumers to make informed choices; and
- the prevention of misleading or deceptive conduct.

In developing and varying standards, FSANZ must also have regard to:

- the need for standards to be based on risk analysis using the best available scientific evidence;
- the promotion of consistency between domestic and international food standards;
- the desirability of an efficient and internationally competitive food industry;
- the promotion of fair trading in food; and
- any written policy guidelines formulated by the Ministerial Council.

The specific objectives for this Application are:

- to examine the extent of possible effects on public health and safety should the stock-in-trade provisions for long-shelf life wine and wine products prior to the 2003 vintage, be indefinitely extended.
- to ensure that the labelling requirements that may result from an indefinite extension of the stock-in-trade provisions for long-shelf life wine and wine products prior to the 2003 vintage do not adversely affect the ability of consumers to make informed choices.

The objectives of this Application will also have specific regard to the desirability of an efficient and internationally competitive food industry.

4. Background

4.1 Nature of wine production

Wine can remain in circulation for a very long-time. Most small wineries and many medium sized wineries tend to age red wines (and to a lesser extent white wines) for a period of up to five years before release. The wine can then be held at the retail level for a period of two to three years before being sold to the public at a premium. There is also a very strong secondary market for wine, which can be resold for a long period of time after production, for example at private auctions.

4.2 Current stock-in-trade arrangements

The stock-in-trade arrangements came into effect following advice from the food industry that it was considered necessary to include a provision in the *Code* which had the effect of allowing the continued sale of 'stock-in-trade' manufactured and packaged during the

transition period. On 28 June 2002, prior to the end of the transition period, Ministers endorsed a 12-month stock-in-trade provision for all general food products and a 24-month stock-in-trade provision for long-shelf life food products, that were manufactured and packaged and legally produced prior to 20 December 2002. In accordance with the current stock-in-trade provisions, long-shelf life wine and wine products, legally produced prior to 20 December 2002, do not need to comply with the *Code* until 20 December 2004 as specified in sub-clause 1(4) of Standard 1.1.1.

The intent of the long shelf-life stock-in-trade provisions contained in Standard 1.1.1 is to allow the continued sale of long shelf-life food products manufactured and packaged, and legally produced during and prior to the transition period. However, in developing the stock-in-trade provisions consideration was not given to products such as bottled and labelled wine that have a very long-shelf life and can remain in circulation for many years. In many cases these wine and wine products improve with age and therefore can be considered unique in this regard.

4.3 Workplan Classification

This Application had been provisionally rated as complexity Category 3 and placed in Group 1 on the FSANZ standards development Workplan. For effective administration the Application is required to be finalised before the completion of the two-year long-shelf life stock-in-trade provision. For this reason the application has been placed in Group 1 of the Workplan. This Initial Assessment confirms these ratings. Further details about the Workplan and its classification system are given in *Information for Applicants* at www.foodstandards.gov.au.

5. Relevant Issues

5.1 Food products likely to be affected

Food products covered by the Application are limited to table wine, sparkling wine and fortified wine that were bottled before the 2003 vintage which are labelled with a vintage date. If the Application is accepted and the *Code* amended accordingly, the labelled vintage date will ensure enforcement officers can clearly differentiate between those products subject to the indefinite extension of the stock-in-trade provisions and other wine products. The Application does not include other alcoholic beverages that are either:

- non-vintage wine products that do not possess a vintage date, such as bag-in-box products;
- non-vintage sparkling wine;
- non-vintage port and the majority of wine products; and
- other alcoholic beverages that are matured in large quantities and are bottled and labelled after maturation, such as spirits.

5.2 Differing labelling requirements upon acceptance of the Application

As mentioned the only labelling requirements that differ between the new *Code* and the old Australia *Food Standards Code* and the New Zealand *Food Regulations (1984)*, are the additional labelling requirements for substances that may cause severe adverse reactions in sensitive individuals in accordance with Clause 4 of Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations of the *Code*. If the Application is accepted, the

source of fining agents derived from egg, fish and milk as well as tannin derived from chestnuts (sometimes used as a wine additive) will not be required to be declared if present in vintage wine and wine products produced prior to the 2003 vintage.

5.3 Risk Assessment

Risk assessment is the process of using available information to identify, characterise and quantify adverse risks. In terms of the FSANZ objectives, risk assessment involves:

- scientific assessment to ascertain risks to public health and safety; and
- assessment of social and economic factors leading to the achievement of consumer protection objectives such as providing adequate information and preventing misleading or deceptive conduct. An assessment of economic and social factors will help to determine the degree to which a market failure will occur.

Risk management decisions, in terms of labelling must be evidence based to ensure that appropriate labelling outcomes are achieved. The risk management framework should tie the degree of risk to a specific labelling requirement. The greater the degree of risk, the more prescriptive the labelling requirement is likely to be.

Any labelling action taken to control or minimise a risk will need to address the nature of the problem; the likelihood of the problem occurring and the consequences of the problem occurring; the need for flexibility or certainty in regulatory arrangements; and the costs and benefits of any regulatory action.

5.4 Other international regulatory standards

The European Commission is in the process of amending the food labelling Directive 2000/13/EC to require the mandatory labelling of all ingredients including sub-ingredients of compound ingredients. Previously sub-ingredients that were part of a compound ingredient that made up less than 25% of the product did not require labelling. The new labelling requirements will ensure allergens are no longer hidden by compound ingredient labelling.

In Europe alcoholic beverages were previously exempt from ingredient labelling. However, the new requirements will ensure all ingredients that are on the European Union allergen list, are declared. The list of allergenic ingredients that may be present in wine include: eggs and products thereof, fish and fish products thereof, milk and dairy products (including lactose), nuts and nut products and sulphur dioxide and sulphites at concentrations of more than 10mg/kg or mg/litre.

The Council of the European Union reached a common position regarding the above labelling requirements in November 2002 and it is expected that final agreement in the European Parliament will be reached early 2003. Member States will have one year to transpose the Directive into their national legal systems. Once this process is complete, manufacturers will have a further year to ensure their labels fully comply with the new labelling requirements. Providing these steps run smoothly, it is expected that products will be compliant by 2005.

There is currently a bi-lateral agreement between the European Union and Australia regarding the trade of wine. In order for Australian wine to be exported to the European Union, it must comply with the European Union labelling requirements.

6. Regulatory Options

The following two regulatory options have been identified.

6.1 Option 1. Maintain the status quo and retain the prohibition of the sale after 20 December 2004 of all long-shelf life products not compliant with the *Code*.

Under this option, vintage wine and wine products that were manufactured and packaged prior to 20 December 2002 in compliance with the applicable food standards at the time, will not be able to be legally sold after 20 December 2004 unless compliant with the *Code*.

6.2 Option 2. Amend Standard 1.1.1 to allow the indefinite sale of wine and wine products covered by Application A485, that were produced prior to 20 December 2002 in compliance with the applicable food standards of the time.

Under this option vintage wine and wine products covered by Application A485 that were produced prior to 20 December 2002 in compliance with the applicable food standards of the time, will be able to be legally sold after the long-shelf life stock-in-trade provisions cease on 20 December 2004.

7. Impact Analysis

Parties who are likely to be affected by the options listed above include:

- wine producers of vintage wine and wine products, particularly small business.
- retail outlets including restaurants, who sell vintage wine and wine products.
- consumers of vintage wine and wine products including investors and those that suffer from severe adverse reactions.
- Government agencies responsible for enforcement of food standards.

To ensure that FSANZ is fully aware of the impact of each of the regulatory options on the different stakeholder groups, relevant issues and questions have been outline below. Please provide any qualitative or quantitative data to support your responses to the questions below.

7.1 Option 1. Maintain the status quo and retain the prohibition of the sale after 20 December 2004 of all long-shelf life products not compliant with the *Code*.

7.1.1 *Wine producers*

It has been suggested by the Wine Makers Federation of Australia that the cost of recalling and relabelling wine is likely to be greater for small and medium sized wineries as a greater proportion of the wine they sell is vintage. Generally wine produced at small and medium sized wineries have lower turnover rates and require longer cellaring times to produce premium wines. While wine sold under these circumstances is proportionately little compared to the total wine released, it does represent a legitimate and valuable part of the

wine trade, particularly as these wines are generally highly regarded and tend to command high prices.

Under this option, the wine industry would be required to recall and relabel all their affected products in order to comply with the *Code* and would undoubtedly incur significant costs. According to the Wine Makers Federation of Australia, these costs are likely to be passed on to the consumer. Additionally, it is suggested that this is not a practical solution, as the ingredients and processing aids including those used as fining agents, will be unknown for many older vintages and it will be impossible to relabel these products legally under the *Code* without analysis of the contents.

1. *Not including the 2003 vintage, can you provide information on the stocks of Australian and New Zealand vintage wine and wine products matured in the bottle, likely to be prohibited from sale after 20 December 2004, unless relabelled? In your response you may wish to comment on the following:*
 - *the proportion by:*
 - *wine type (vintage table wine, vintage sparkling wine and vintage fortified wine); and*
 - *the year of vintage for each wine type.*
 - *the volume by:*
 - *wine type (vintage table wine, vintage sparkling wine and vintage fortified wine); and*
 - *the year of vintage for each wine type.*
 - *the value by:*
 - *wine type (vintage table wine, vintage sparkling wine and vintage fortified wine); and*
 - *the year of vintage for each wine type.*
2. *Not including the 2003 vintage, what proportion of vintage wine and wine products matured in the bottle, are held by large, medium and small wineries in Australia and New Zealand?*
3. *What is the length of time that a vintage wine or wine product is likely to be held by a winery before being released for retail sale?*
4. *What would be the impact on wine producers, both positive and negative, of the expiration of the current stock-in-trade provisions for wine and wine products? In particular you may wish to comment on:*
 - *the process of relabelling and the costs involved; and*
 - *whether the quality of wine would be affected by relabelling. If so, can this cost be quantified?*

7.1.2 Retail outlets

A recall would result in a significant disruption to the wine supply. Wine outlets including restaurants and function centres that have purchased vintage wine and wine products produced prior to the 2003 vintage, would be unable to sell these products unless the bottles were relabelled.

1. *Can you provide information on the stocks of affected wine and wine products for the Australian and New Zealand market? Where possible, you may wish to comment on the following:*
 - *the period in which a range of wine types by vintage remain in circulation.*
2. *What would be the impact on retail outlets, both positive and negative, of retaining the current stock-in-trade regulations for wine and wine products? In particular you may wish to comment on:*
 - *the process of relabelling and the costs involved.*

7.1.3 Consumers

There is likely to be consumer concern regarding a recall which may affect the image of wine and future sales. Consumers expect to be able to purchase vintage wine and wine products and it is therefore vital that trade continues for these products. Additionally, the costs of recalling and relabelling affected wine and wine products are likely to be passed on to consumers.

Many wine and wine products are purchased as an investment and these products will not be able to be legally resold unless they are relabelled. Any relabelling may negatively affect the value of these wine stocks. Therefore, there is likely to be strong public interest among wine investors to ensure these products do not become illegal and retain their value.

1. *What would be the impact on consumers, both positive and negative, of retaining the current stock-in-trade regulations for wine and wine products?*
2. *Are consumers likely to use the additional labelling information on wine and wine products? Is it likely that the declaration of nuts, egg, fish and milk on vintage wine and wine products will influence the choice of sensitive individuals who suffer from severe adverse reactions?*
3. *What proportion of all vintage wine in Australia and New Zealand is held by consumers rather than wineries and retail outlets? What proportion of these stocks are likely to be resold?*

7.1.4 Government agencies

1. *What would be the impact on government and enforcement agencies, both positive and negative, of retaining the current stock-in-trade regulations for wine and wine products?*

7.2 Option 2. Amend Standard 1.1.1 to allow the indefinite sale of wine and wine products covered by Application A485, that were produced prior to 20 December 2002 in compliance with the applicable food standards of the time.

7.2.1 Wine producers

1. *What would be the impact on industry, both positive and negative, in extending the stock-in-trade provisions indefinitely for vintage wine and wine products?*

- 2. If an indefinite extension of the stock-in-trade provisions is granted for vintage wine and wine products produced prior to the 2003 vintage, is there likely to be a variation in the level of information on the labels of wine and wine products produced after the 2003 vintage - i.e. is it likely that different fining agents and processing aids will be used for wine and wine products produced after the 2003 vintage?*

7.2.2 Retail outlets

- 1. What would be the impact on retail outlets, both positive and negative, in extending the stock-in-trade provisions indefinitely for vintage wine and wine products?*

7.2.3 Consumers

Wine produced prior to 20 December 2002 is required to declare added sulphites in concentrations of 10mg/kg or more. However, tannin derived from chestnuts and fining agents derived from egg, fish and milk, were not required to be declared. Therefore, if the Application is accepted, this additional allergen labelling information will not be declared on the labels of vintage wine and wine products.

- 1. What would be the impact on consumers, in particular sensitive individuals who suffer from severe adverse reactions from chestnuts, egg, fish and milk, both positive and negative, in extending the stock-in-trade provisions indefinitely for vintage wine and wine products?*
- 2. To what extent do sensitive individuals currently read wine labels for information on sulphite declarations? How would the purchasing decisions by sensitive individuals be affected by the extension of the stock-in-trade provisions, i.e. vintage wine and wine products produced prior to the 2003 vintage will not declare the presence of nuts, egg, fish and milk?*

7.2.4 Government agencies

- 1. What would be the impact on government and enforcement agencies, both positive and negative, in extending the stock-in-trade provisions indefinitely for vintage wine and wine products? Would the provision of a vintage date on those wine and wine products subject to the extension of the stock-in-trade requirements affect enforcement?*

8. Consultation

FSANZ is committed to actively engaging stakeholders in the review and development of food standards. The Community Involvement Protocol was developed to provide a framework of principles and guidelines for engaging the community on food standards issues to assist FSANZ in implementing its community involvement policy. The Application has been placed in Community Involvement Category Two on the basis that there is a low perceived risk to health and safety, little or no scientific evidence of health or safety risk, low but broad social or economic impact and low but broad public interest or relevance. For this reason an external advisory group has not been established. However, submissions are

encouraged.

8.1 Invitation for Public Submissions

This report has raised a number of questions in relation to the extension of the stock-in-trade provisions for wine and wine products. These are intended to guide comment but should by no means be seen to pre-empt or restrict any views.

Submitters' comments will be taken into account in the development of any regulatory measures arising from this review. Furthermore, please note that comments on relevant subject matter not identified by this report are also welcome. Comments that would be useful could cover:

- parties that might be affected (either negatively or positively) by the proposed regulatory options;
- evidence in support of or opposition to the proposed regulatory options; and
- the potential impact of the proposed options to consumers, industry and government.

The Initial Assessment Report will be made available for public access via the FSANZ website. In addition, a copy of the report will be sent to key stakeholders. All stakeholders that make a submission in relation to the Application will be included on a mailing list to receive further FSANZ documents in relation to the Application. Other interested parties, as they come to the attention of FSANZ, will also be added to the mailing list for public consultation.

8.2 World Trade Organization (WTO)

Australia and New Zealand are members of the World Trade Organization (WTO) and are bound as parties to WTO agreements. In Australia, an agreement developed by Coalition of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory.

Under the Treaty between the Governments of Australia and New Zealand on joint Food Standards, FSANZ is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

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

9. Conclusion and Recommendation

This Application fulfils the requirements for Initial Assessment as prescribed in section 13 of the *Food Standards Australia New Zealand Act 1991*. Accordingly, FSANZ has accepted the Application.

This report discusses a range of issues relating to the extension of the stock-in-trade provisions for vintage wine and wine products. FSANZ seeks comment on these matters from all sectors of the community including industry, consumers and governments. Submission to this Initial Assessment will be used to further develop A485, including the preparation of draft regulatory measures, which will be circulated for public consideration within the context of the Draft Assessment Report for A485.

ATTACHMENTS

1. Clause 1 of Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions

ATTACHMENT 1

Standard 1.1.1, Clause 1

1 Application of this Code

(1) Unless expressly provided elsewhere in this Code, the provisions of this Code apply to food products -

- (a) sold or prepared for sale in Australia and/or New Zealand; and/or
- (b) imported into Australia and/or New Zealand.

(2) Unless expressly provided elsewhere in this Code, a food product is taken to comply with any variation to this Code made from time to time, for a period of 12 months after the commencement of the variation, if the food product otherwise complied with this Code before the variation commenced.

(3) Subject to subclause (4) and prior to 20 December 2003, subclause (1) does not apply to food products –

- (a) manufactured and packaged prior to 20 December 2002; and
- (b) which complied with all applicable food standards in the case of Australia and all applicable food standards or New Zealand *Food Regulations (1984)* in the case of New Zealand as of the date of manufacture or packaging of the food product.

(4) Prior to 20 December 2004, subclause (1) does not apply to food products with a shelf life of more than twelve months –

- (a) manufactured and packaged prior to 20 December 2002; and
- (b) which complied with all applicable food standards in the case of Australia and all applicable food standards or New Zealand *Food Regulations (1984)* in the case of New Zealand, as of the date of manufacture or packaging of the food product.

(5) For the purposes of a Standard in this Code for which a corresponding transitional Standard in Part 1.1A applies, the reference to ‘commencement of the variation’ in subclause 2 is a reference to the date when that corresponding Standard in Part 1.1A ceases to have effect.

(6) Prior to 20 December 2003, Part 1.2, other than Standards 1.2.3, those parts of Standard 1.2.5 that refer to ‘use-by dates’, and 1.2.6, does not apply to food labelled on the premises for retail sale from which it is sold.