International Agricultural Trade and Policy Center

COUNTRY OF ORIGIN LABELING – A COOL UPDATE

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INTERNATIONAL AGRICULTURAL TRADE AND POLICY CENTER

MISSION AND SCOPE: The International Agricultural Trade and Policy Center (IATPC) was established in 1990 in the Food and Resource Economics Department (FRED) of the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida. Its mission is to provide information, education, and research directed to immediate and long-term enhancement and sustainability of international trade and natural resource use. Its scope includes not only trade and related policy issues, but also agricultural, rural, resource, environmental, food, state, national and international policies, regulations, and issues that influence trade and development.

OBJECTIVES:

The Center's objectives are to:

- Serve as a university-wide focal point and resource base for research on international agricultural trade and trade policy issues
- Facilitate dissemination of agricultural trade related research results and publications
- Encourage interaction between researchers, business and industry groups, state and federal agencies, and policymakers in the examination and discussion of agricultural trade policy questions
- Provide support to initiatives that enable a better understanding of trade and policy issues that impact the competitiveness of Florida and southeastern agriculture specialty crops and livestock in the U.S. and international markets

Country of Origin Labeling – A COOL Update

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The Country of Origin Labeling (COOL) provisions in the 2002 Farm Bill require retail sellers of several food commodities to inform consumers of the country of origin for those products. The Labeling Legislation applies to beef, pork and lamb in the form of whole muscle cuts and ground meat. It also applies to fish (farm-raised or wild), peanuts, fruits and vegetables. These commodities are termed "covered commodities" in the law and must be exclusively produced and processed in the United States to be deemed of U.S. origin.

USDA issued Voluntary Guidelines for COOL on October 11, 2002. It estimated the cost of COOL to be $1.967 billion with producers bearing a $1 billion record keeping burden. A study by the International Agricultural Trade and Policy Center of UF/IFAS used a different set of assumptions to estimate the cost of COOL to be $275 million with producers bearing a $205 million first year cost. Other studies have estimated the total cost to be as much as $8.9 billion.

The U.S. General Accounting Office reviewed the existing labeling laws and evaluated the opportunities to implement the challenging aspects of this current law. They concluded that the assumptions underlying USDA's $1.9 billion estimate for the first year paperwork burden on the industry under the voluntary program were questionable and not well supported. They also surveyed 57 agricultural attaches in countries that are major trading partners with the U.S. and found that 48 require country-of-origin labeling for one or more of the covered commodities and 44 require domestic products be labeled. Of these, 46 required labeling for produce at retail, 34 for peanuts, 41 for one or more of the meats, and 39 for fish/shellfish. Three of the largest U.S. trading partners (Japan, Mexico and Canada) require labeling on one or more of the covered commodities. Specifically, Canada requires country-of-origin labeling for imported repackaged fruits and vegetables. Mexico requires it for all imported and domestic prepackaged foods. Japan requires it for all imported and domestic loose and prepackaged foods.

Florida has had a labeling law for fresh produce, packages of bee pollen, and honey at the retail level since 1978. Imported products must be labeled by country of origin at retail level. The Florida Department of Agriculture and Consumer Services has staff that routinely inspects more than 40,000 retail, processing and food service establishments annually. They inspect for food safety issues as well as country-of-origin labeling.

The USDA issued its proposed rules for mandatory country-of-origin labeling on October 27, 2003. The proposed rule requires that retailers mark 'covered commodities' at retail with information so that the consumer knows the country of origin on those commodities. Retail establishments that sell less than $230,000 of fruits and vegetables or of all covered commodities are exempt from the legislation as are food service establishments such as restaurants and cafeterias. Suppliers are required to provide buyers with origin information for those covered commodities and records must be maintained to substantiate the origin claims. Retailers are required to maintain records at the corporate office for 2 years from the date of retail sale that identifies the supplier, product unique to the transaction, and the origin information. Records must be maintained at the store level for 7 days. Retailers are not required to verify the accuracy of information, but they will be held liable if they use erroneous information they should have suspected was incorrect.

Suppliers who sell to retailers are required to possess or have access to records that substantiate origin claims and must maintain unique records for each transaction for 2 years. The records required of suppliers must identify the previous source and subsequent recipient of the product. USDA has used the term 'affidavit' in frequent discussions about the proposed rule, indicating that those who supply products to any segment of the marketing channel can use a written affidavit from their suppliers to satisfy their requirements for country of origin. The key to the USDA proposed rule is that the chain of custody must be maintained on all product from the point of origin. Once a product is determined to be of a certain origin, that label must follow that product through the market channel for all covered commodities of the law. Because product must be exclusively produced and processed within the U.S. to be deemed of U.S. origin, USDA has interpreted that to indicate that producers must be able to verify the origin claims for all products used in covered commodities. There are no animals covered within the labeling legislation, but because animals are processed into the covered commodities, then suppliers must be able to verify origin back to birth. As such, producers must be able to produce records that can be used to verify origin on their products.

USDA has published a list of records that they feel may satisfy the requirements for verifying country of origin on covered commodities in an audit. Those lists can be found on the USDA web site at http://www.ams.usda.gov/cool/records.htm.

Examples of the types of records that could satisfy the requirements include birth records, receiving records and feeding records for livestock, harvest records, weight tickets and pesticide application records for perishable items, and site maps, vessel records and production records for wild fish. The key concept that was conveyed in the proposed rule was that a chain of custody must be established for all covered product. Any part of this chain that establishes a record for country of origin must be attached to this product and flow through the marketing channel. Because affidavits (written statements of origin) will satisfy the chain of custody, any statement on origin must be backed by records that would verify the affidavits in an audit.

USDA also completed a cost benefit analysis as part of their rulemaking process for the proposed rule. They concluded that mandatory country of origin labeling could result in additional costs amounting to as much as $582 million in the first year with producers bearing $235 million of that cost. They also concluded that there is little evidence that consumers were willing to pay a premium for labeled product, citing as evidence the lack of current voluntary labeling programs. USDA did estimate that a 1 to 5 percent increase in demand for the covered commodities would offset the additional costs created by the mandatory program.

There are several studies that have concluded a benefit to labeling, citing as evidence the consumers desire for origin labeling and their willingness to pay a premium for this information. VanSickle et al. (2003) estimated the potential benefits to origin labeling for beef alone to be as much as $5.8 billion by using an estimate derived by Umberger et al. (2003). USDA chose to ignore those studies however, claiming the procedures used by Umberger et al. were not appropriate for estimating potential benefits.

They criticized the use of Umberger et al. because they claimed that those estimates did not reflect what consumers in the marketplace would pay when faced with a budget constraint. They also felt the results may have been influenced by the way the researchers conducted the research and that the resulting estimates were not appropriate for estimating aggregate ‘willingness to pay’. The USDA conclusion ignores that study and the many other studies that have concluded that consumers desire origin labeling and were willing to pay for the assurance a label provides. USDA also discounts the idea that market power may have a role in the lack of current labeling programs and the lack of support from the retail trade and meat processors.

There has been considerable debate on COOL since it became law with the 2002 Farm Bill. The mandatory labeling program is scheduled for implementation on September 30, 2004. USDA recently extended the comment period on the proposed rules from December 29, 2003, to February 27, 2004. The controversy over costs and benefits to mandatory country of origin labeling has resulted in Congress writing a 2004 Agricultural Appropriations Bill that contains language to delay implementation of the mandatory program for 2 years for all commodities but fish. The Agricultural Appropriations Bill has passed the House after going through Conference Committee and is scheduled to be debated in the Senate in January when it reconvenes.

The retail trade and the meat processing sectors were influential in the language included in the 2004 Agricultural Appropriations Bill. Their stated concerns are that the costs of the mandatory program would be excessive and that benefits would not offset those additional costs. Proponents contend that the cost estimates prepared by USDA in their proposed rule are higher than would be required and that benefits would offset those costs. If the 2 year delay is approved by the Senate and signed into law by the President, the debate over mandatory country of origin labeling will be ongoing unless a compromise is reached that either ends the mandatory country of origin labeling program or develops a program that can be supported by a wider constituency.

References

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