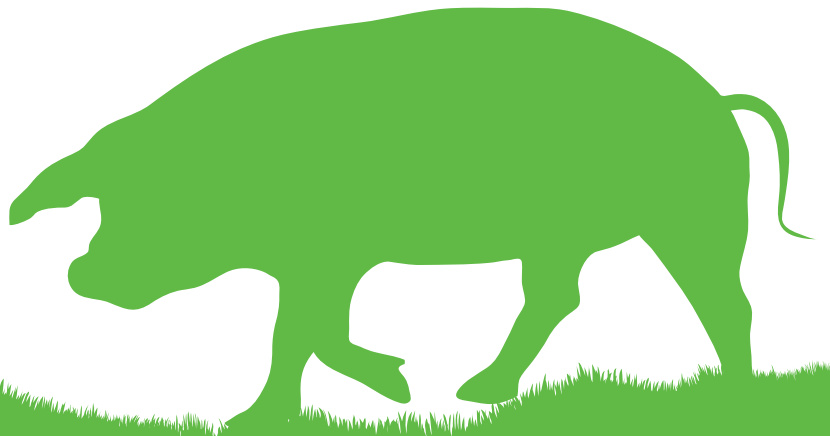
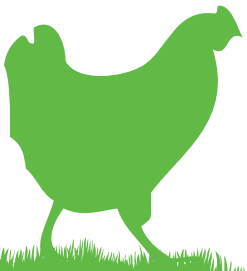


**FOOD LABELLED
'BRITISH'
SHOULD BE
BORN & BRED
IN BRITAIN**



honest food

Brought to you by the
 Conservatives

HONEST FOOD CAMPAIGN

COUNTRY OF ORIGIN FOOD

LABELLING

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1. INTRODUCTION

Conservatives are committed to an overhaul of food labelling procedures to end the misleading and unclear rules by which meat can be reared in other countries but processed in the UK and then labelled as British.

Under current rules, the country shown on the label merely refers to the place the product was last processed. Foreign meat can be imported into Britain, turned into sausages and bacon or processed in other ways and subsequently labelled in a way that suggests it is genuinely British. There is nothing in current food labelling regulations to define how much British involvement is required before food can be counted as British. So a pork pie made in Britain from Danish pork can legitimately be labelled as a British pork pie.¹

This is despite the fact that two-thirds of pig meat imported into the UK might have been reared in conditions banned in the UK.² People wishing to exercise a preference for higher animal welfare standards by buying British may, therefore, end up unwittingly supporting cruel methods of production overseas. This is unacceptable. It undermines efforts to improve animal welfare, deceives consumers and hurts our farmers.

Labour's response to growing consumer demand for clearer labelling has been inadequate.³ The Conservatives will close the loophole in the law which allows meat simply processed here to carry a UK or British label. Under our rules honest labelling will become a statutory requirement. Honest labelling will become a statutory requirement.

Current regulations provide for compulsory origin labelling, "where failure to give such particulars might mislead the consumer..."⁴ Furthermore, other countries have used this clause to justify compulsory country of origin labelling and we believe there are strong grounds to do so in the UK given the manifest potential of food labels to mislead. Indeed, we believe such a mandate is essential in order to comply with the requirement that consumers should not be misled.

"The recent scare over contaminated Irish pigmeat further underlines the need for honest food labelling, as already applies for some foodstuffs such as beef. Yet the Government claims it is 'constrained on the position that we have been able to take'.⁵ It is time for the Government to follow the lead of other Member States and fight for the interests of its consumers and farming industry.

The 'Honest Food' campaign for clear country of origin food labelling aims to:

- Empower consumers to make informed choices about the food they buy;
- End misleading packaging of non-British meat or meat products being labelled as British;
- Support British producers by allowing consumers to identify genuine British meat;
- Promote superior British produce by highlighting the advantages of British produce - especially the superior welfare standards of UK food, and
- Bring honesty and integrity to how meat is sold to restore trust and confidence in British food and labelling in general.

1 Speech by Hilary Benn to the Oxford Farming conference, 6 January 2009

2 Environment, Food and Rural Affairs Select Committee, 'The English pig industry', 15 December 2008

3 'Hilary Benn calls for clearer food labelling' - <http://www.defra.gov.uk/news/2009/090106b.htm>

4 Directive 2000/13/EC

5 Hansard: 6 Nov 2008 : Column 343

2. OUR PROPOSAL

- We will write into law a new definition of country of origin for meat and meat products, so that it means what consumers rightly assume: the place where the animal was born. This is in line with the Food Standard Agency's guidance notes and consumer surveys.⁶ It is also the basis of country of origin labelling rules in other countries, including the United States and Australia.⁷
- Our Food Labelling Regulations (Amendment) Bill will be the vehicle by which we will seek to achieve this change. We will urge the Government to support it and immediately to notify the European Commission of its intention to do so.⁸ We base this proposal on the clear evidence that consumers are liable to be misled as to the origin of meat and meat products and that current legislation is not effective in preventing misleading origin indications.

European Union (EU) regulations provide for compulsory origin labelling where its absence might mislead the consumer. In 2003 a Spanish decree providing for compulsory origin labelling of canned asparagus was not opposed by the European Commission "given the reasonable assumption by consumers that unless otherwise stated, it had Spanish origin."⁹

The Irish Republic has attempted to extend compulsory country of origin labelling for meat and was afforded an opportunity by the European Commission to provide further information in support of its proposals.¹⁰ While the Commission issued a negative opinion, the Irish Government was not helped by the UK Government's failure to support its proposals.

Legal advice provided to the Conservatives suggests that there is strong case that our proposal would be permissible under EU law. According to Lawrence Graham LLP: "The fact that consumers are liable to be misled by current labelling and that it is important to consumers to know the origin of meat ingredients in products containing meat (e.g. so that they have comfort regarding the welfare of the livestock) should assist in persuading the Commission to give a positive opinion."¹¹

Indeed, the European Commission has recently agreed to introduce compulsory origin labelling for virgin and extra virgin olive oil sold in the EU.¹² The EU introduced an optional origin labelling system in 2002, but the Commission has said: "This has proved insufficient to avoid consumers being misled."¹³ The same applies for meat products.

⁶ FSA, Country of Origin Labelling Guidance, October 2008, p.11

⁷ DG Agriculture and Rural Development 'Mandatory Labelling for EU Origin', October 2008

⁸ Article 19 of the EU Directive requires Member States to notify the Commission of the measures envisaged and the reasons justifying them. Member States are forbidden from implementing any new legislation until three months after they have notified the Commission.

⁹ DG Agriculture and Rural Development 'Mandatory Labelling for EU Origin', October 2008

¹⁰ Note from Lawrence Graham LLP, 10 February 2009

¹¹ Lawrence Graham LLP, 11 February 2009

¹² <http://www.eubusiness.com/news-eu/1233756122.83>

¹³ <https://www.just-food.com/article.aspx?id=103798&lk=s>

EU law does not preclude the possibility of recourse to a consumer research poll or an expert's report as guidance for its judgment on liability to mislead.¹⁴ Recent UK consumer research¹⁵ shows that 85 per cent of consumers want clear labels on pork to identify the origin, while the Food Standards Agency states that: "Consumers expect meat labelled 'Produce of' to come from animals that have been born, reared and slaughtered in those countries and we consider this to be good practice to label accordingly."¹⁶

A survey conducted by ICM in February 2009¹⁷ is further evidence that UK consumers are currently being misled in spite of recent publicity about misleading labelling. It found that half of voters (51 per cent) believe that a product such as sausages or bacon labelled as British or "produced in the UK" meant that it was from an animal reared in Britain.

The work that some food retailers are already doing shows that it is quite possible to provide clear and unambiguous country of origin labelling. It is technically and logistically possible to provide true origin information on products, even those with ingredients which have variable sourcing. Indeed, traceability systems are legally required under General Food Law and these allow country of origin to be determined for all ingredients. Studies in the United States and Australia show that any increased cost of origin labelling for meat is negligible, while the EU has said that small and medium size enterprises (SMEs) consulted would expect a positive impact from compulsory origin labelling.

¹⁴ See judgment of the European Court of Justice in case C-210/96

¹⁵ <http://www.waitrose.presscentre.com/Content/Detail.asp?ReleaseID=903&NewsAreaID=2>, 1 February 2009

¹⁶ Food Standards Agency, Country of Origin Labelling Guidance, 31 October 2008, p.11

¹⁷ ICM poll for the Conservatives, 11-12 February 2009

¹⁸ DG Agriculture and Rural Development 'Mandatory Labelling for EU Origin', October 2008
http://ec.europa.eu/agriculture/quality/policy/workingdocs/label_en.pdf

3. CHANGE REQUIRED

Research over recent years has shown an increasing desire among consumers for more information about the food they eat and where it comes from.¹⁹ One survey conducted in February 2009 showed that 85 per cent of shoppers want to see the country of origin clearly labelled on the pack.²⁰

A survey conducted by ICM in February 2009²¹ found that nearly two thirds (62 per cent) of people would like to know which country the food they buy comes from. Women were even keener than men to know the origin of their food products, with 67 per cent of female respondents wanting to know their origin, in comparison to 57 per cent for men. A huge majority (87 per cent) agreed that the Government should ensure that the country of origin is displayed clearly on food. Only a small minority (13 per cent) thought that it shouldn't.

Half of voters (51 per cent) believe that a product such as sausages or bacon labelled as British or "produced in the UK" meant that it was from an animal reared in Britain. 44 per cent thought that it meant that the sausages or bacon were processed here using imported meat – but this follows extensive publicity about the origin of pork products in Jamie Oliver's campaign.

When asked about how they would shop if food was clearly labelled with its country of origin, over half of voters (53 per cent) said that they would buy British food even if it had a slightly higher price. A further third (33 per cent) would buy British provided it was no more expensive. Only 13 per cent stated that they would buy the cheapest food whatever its origin.

The increasing interest in origin has prompted manufactures and retailers to improve their labelling and this is something we applaud and encourage. However, this is largely on premium lines. Value lines will not always state genuine origin (certainly not clearly) if it is not required.²² It is essential that all consumers, including those buying lower range products, have information about the origin of their food. The British Retail Consortium argue that it is the process, rather than the origin of the meat, that most concerns consumers.²³ We disagree. The same ICM survey found that an overwhelming majority (89 per cent) felt that a meat product labelled as British or "produced in the UK" should mean that it was from an animal reared in Britain.

In pork and pork products categories in particular, there are numerous examples of packaging that makes it difficult for consumers to be sure where the products came from. A study, carried out by the Meat and Livestock Commission, found that three in five of the packs selected for testing communicated the country of origin in an unclear or confusing manner.²⁴

A report by the British Pig Executive (BPEX) revealed that over half of all manufacturers failed to give clear, or indeed any, country of origin labelling. One in four own label products sold has no country of origin labelling information.²⁵ The BPEX report found that "Produced in the UK" as a solus on-pack message had become a euphemism for 'Made from imported pork'.²⁶

¹⁹ Supermarket Meat Retailing, The Meat and Livestock Commission report for the NFU, March 2008, p.27

²⁰ <http://www.waitrose.presscentre.com/Content/Detail.asp?ReleaseID=903&NewsAreaID=2>, 1 February 2009

²¹ ICM poll for the Conservatives, 11-12 February 2009

²² NFU briefing note

²³ "It's the process rather than the origin that's important here. It's a generic process which is a way of producing ham – Wiltshire ham in this case – and therefore it's the process that's as important, or more important rather, than the actual country of origin." – Andrew Opie, Food Policy Director of the British Retail Consortium (BRC) on BBC Radio 4, Farming Today, 31 January 2009

²⁴ 'Supermarket Meat Retailing: A special report prepared by The Meat and Livestock Commission on behalf of The National Farmers' Union', March 2008, p.29

²⁵ BPEX Labelling Report, June 2006, p.3

²⁶ BPEX Labelling Report, June 2006, p.3

Given that for many people terms such as ‘produce of’ imply that the place of processing and the origin of ingredients are the same,²⁷ there can be little doubt that current rules are liable to mislead consumers, as has been brilliantly demonstrated by Jamie Oliver.²⁸

The Food Standards Agency’s guidance recommends that origin be clearly declared for principal meat ingredients.²⁹ However, a survey conducted by the FSA to assess the extent to which its Guidance was being followed in relation to meat products found that over 80 per cent of the products surveyed failed specifically to indicate the origin of the main meat ingredient. The report states:

“A desk-based examination of information on food labels could not determine the actual place of origin of a food or its primary ingredients, beyond that which was declared. Thus in the majority of cases the assessors had insufficient information to determine whether this requirement had been met. Often a product origin statement such as ‘produced in the UK’ was given, but no reference was made as to the origin of the ingredients.”³⁰

If a ‘desk-based examination’ of food labels cannot determine the actual origin of the ingredients in food, what chance does the casual shopper have? The FSA’s survey demonstrates two things. First, that the current labelling system might mislead (the basis of compulsory origin labelling under EU regulations). And second, that the FSA guidance, however worthy, needs legal force.

²⁷ <http://www.food.gov.uk/news/newsarchive/2002/nov/countryoforiginadvice>

²⁸ http://www.channel4.com/food/on-tv/jamie-oliver/jamie-saves-our-bacon/jamie-saves-our-bacon-08-12-12_p_1.html

²⁹ “We suggest declaring country of origin information for principal meat ingredients in meat products and for principal dairy ingredients in dairy products”, Food Standards Agency, Country of Origin Labelling Guidance, 31 October 2008, p.12

³⁰ FSA An Assessment of the Uptake of Food Standards Agency Guidance on Country of Origin Labelling November 2005, p.28

4. THE BENEFITS

We propose a change in the law in the consumer interest but we also envisage benefits to British farming and to animal welfare.

The best friend to the British farmer is the well informed consumer. It is crucial that farmers are able to engage the public in supporting the high standards of animal welfare and environmental care that lie at the heart of British farming. These standards often exceed those under which animals are reared in other EU countries, with whom our farmers are forced to share the 'produced in the UK label'.

The majority of Europe's pigs, for example, live their entire lives on slatted, concrete floors with no straw and no daylight; piglets are castrated without pain relief and pregnant sows are kept in a narrow metal cage in which they can only move a few inches back and forwards.³¹

Sow stalls have been banned in the UK for a decade. In addition to welfare legislation affecting the whole industry, 92 per cent of British pig production falls under a voluntary pig farm assurance scheme. Farms in the scheme are inspected every three months by a veterinarian and annually by an independent inspector. The scheme sets out standards on pig husbandry, welfare, traceability and food safety that exceed UK legislation (e.g. castration of male pigs is prohibited).³²

Compassion in World Farming recently concluded that UK pigs were better off than their European counterparts.³³ But under the current system anyone wishing to buy British bacon as a result may unwittingly end up with rashers from Spain, the Netherlands, Germany or Hungary, which fared less well in the welfare analysis. This is unacceptable and has contributed to a 40 per cent contraction in the breeding herd in the last 10 years, during which time the UK has become heavily reliant on imports of pork, bacon and ham. Furthermore is that today 70 per cent of these imports would today fall below the legal standards set for home production.³⁴

A recent survey found that 70 per cent of shoppers are unaware of the awful conditions the majority of imported pigs are reared in and an even higher proportion want clear country of origin labelling.³⁵ Enabling consumer demand to be freely expressed in purchasing decisions is key to driving up standards of animal welfare.

Our farmers cannot effectively market their produce when they are forced to share the British label with imports produced to lower standards. And consumers cannot buy British in confidence until current rules are overhauled.

³¹ <http://www.waitrose.presscentre.com/Content/Detail.asp?ReleaseID=903&NewsAreaID=2>

³² Environment Food and Rural Affairs Select Committee, The English Pig Industry, 15 December 2008

³³ http://www.ciwf.org.uk/includes/documents/cm_docs/2009/n/nr3608.pdf

³⁴ Hansard: 29 Sep 2008 : Column 2419W and Peter Kendall, 'The case for commercial farming', Oxford Farming Conference 3 January 2007

³⁵ Waitrose <http://www.waitrose.presscentre.com/Content/Detail.asp?ReleaseID=903&NewsAreaID=2>, 1 February 2009, see also RSPCA: UK shoppers - pig ignorant?, 12 January 2009

5. SUPPORT FOR COUNTRY OF ORIGIN LABELLING

The call for country of origin food labelling is being supported by a wide cross-section of the farming, agricultural and animal welfare community.

Compassion in World Farming

“Compassion in World Farming (CIWF) believes that meat and products containing meat (such as ready meals) should only be permitted to be labelled as British if the animal from which the meat was derived was born, reared and slaughtered in Britain. This is essential to prevent consumers from being misled and to ensure that British farmers are not undermined by imports produced to lower welfare standards.”³⁶

National Farmers' Union (NFU)

“It is essential that consumers making a purchasing decision have information on origin. Compulsory country of origin labelling should apply to other meat as it does for beef. Shoppers and farmers deserve food labelling that is clear, doesn't mislead and where British genuinely means British.”³⁷

British Pig Executive (BPEX)

“Labelling is a key area for improvement. Idiosyncrasies in the law allow imports of fresh pork to be processed into bacon and ham and to be termed 'British'. This misleading practice needs to be ended.”³⁸

Family Farmers' Association

“The Family Farmers' Association fully supports the campaign for proper labelling of food as to country of origin. Food labelled as “British” should be wholly produced in the stated country. It is entirely wrong that meat can be raised anywhere in the world, under any conditions, imported into this country, made into edible form, and then labelled “UK” so that the consumer is misled.”³⁹

National Sheep Association

“NSA believes that it is very important that consumers are able to make informed choices about the lamb and mutton that they buy based on clear labelling relating to country of origin. The UK sheep industry produces wonderful products of which we are extremely proud and we need to have confidence that if a product is labelled as being British that means it was born, reared and slaughtered in Great Britain.”⁴⁰

British Poultry Council

“The British Poultry Council is supportive of a policy that would promote British meat to consumers through more open information on pack. We have long supported clearer country of origin labelling and the principle of the Conservative proposal will please many poultry farmers and processors in the UK, as well as consumers”.⁴¹

³⁶ Peter Stevenson, Chief Policy Advisor, CIWF, 12 February 2009

³⁷ NFU, 13 February 2009

³⁸ BPEX, Evidence to the EFRA Select Committee, 13 October 2008

³⁹ Pippa Woods, Chairman, Family Farmers' Association, 9 February 2009

⁴⁰ Peter Morris, Chief Executive, National Sheep Association, 12 February 2009

⁴¹ BPC, 13 February 2009

Royal Society for the Prevention of Cruelty to Animals (RSPCA)

“We think it is essential that all meat be clearly and consistently labelled to allow consumers to make an informed choice. In these hard economic times, shoppers often seek out specifically-labelled products purely because they want to support certain farming practices. Therefore we believe transparent labels are vital in assisting the consumer in making these choices.”⁴²

Country Land and Business Association:

“The CLA believes the food chain needs more transparent country of origin labelling on primary products. The public has a right to know where the food on their plate has come in order to make informed choices about what they are eating. Better labelling will also mean a stronger connection between the public and those in the countryside producing home grown food. That can only be a good thing.”⁴³

Women’s Food and Farming Union

“The Women’s Food and Farming Union strongly support any moves to improve food labelling, especially those which will remove doubts over country of origin.”⁴⁴

Agricultural Industries Confederation

“AIC welcomes this proposal to legislate for a more genuine and authentic country of origin labelling system. It will not only provide greater transparency and certainty for the consumer, but will also reward British producers for their operating excellence and product quality.”⁴⁵

National Pig Association

“Clear and unambiguous labelling is urgently required. We are supportive of legislation to secure genuine compulsory country of origin labelling as long as it can be delivered without significant costs.”

⁴² Dr Julia Wrathall, head of RSPCA farm animal science, 9 February 2009

⁴³ CLBA, 13 February 2009

⁴⁴ WFFU, 12 February 2009

⁴⁵ AIC, 12 February 2009

6. QUESTIONS AND ANSWERS

Q. Do people really care about where their food comes from?

A. Evidence suggests that people are increasingly concerned about the country of origin of the food they are eating. The Government's own food watchdog the Food Standards Agency has confirmed that "there is a very high level of interest in clearer country of origin indications" and that consumers "are looking for clear information about the country of rearing of the animal rather than the country where the food is produced or packed".⁴⁶ A recent poll for Waitrose on food labelling found that 85 per cent want clearer information.⁴⁷ This cannot solely be attributed to 'the Jamie effect' – previous polls showed a significant majority of consumers want accurate origin labelling.⁴⁸ The most recent survey on the subject, conducted by ICM, found that nearly two thirds of people would like to know which country the food they buy comes from. A large majority (87 per cent) agreed that the Government should ensure that the country of origin should be displayed clearly on food. Only a small minority thought that it should not.

Q. Aren't people more concerned about price?

A. Price will always be a considerable influence on purchasing decisions, particularly in a recession. Over the last twelve months price has risen in importance to consumers, but it has not been the fastest rising factor. That which is animal welfare, closely followed by country of origin.⁴⁹ In an ICM survey for the Conservatives in February 2009, over half of voters (53 per cent) said that they would buy British food even if it had a slightly higher price. A further third (33 per cent) would buy British provided it was no more expensive. Only 13 per cent stated that they would buy the cheapest food whatever its origin. Nearly half (48 per cent) of lower income voters (DE) said that they would buy British even if it cost a bit more, and fewer than a fifth said they would buy the cheapest possible option.

Q. What evidence do you have that consumers are being misled by current labelling?

A. Current rules allow for imported meat to be labelled as 'Produced in the UK' despite the fact that most consumers assume this description to mean it was produced from animals born, reared and slaughtered here. Recent television documentaries, consumer research and industry investigations have exposed the liability of food labels to mislead the consumer. The same ICM survey from February 2009, was evidence that the UK public are being misled by what the current rules on food labelling permit: 51 per cent said that a meat product such as sausages or bacon labelled as British or "produced in the UK" meant that it was from an animal reared in Britain. Even the European Commission accepts that "this is an area where [we] could improve the existing situation to increase transparency and consumers' confidence. For example, by providing rules for situations where labels suggest or indicate a given origin but the information, though not false, is potentially misleading or deceptive (e.g. ham manufactured in a given country with meat from another)."⁵⁰ Indeed, rules have recently been approved to provide mandatory country of origin labelling for olive oil because current labelling is potentially misleading.⁵¹ There is a clear case for this to extend to meat.

⁴⁶ <http://www.food.gov.uk/multimedia/pdfs/betterfoodlabellingreport.pdf>

⁴⁷ <http://www.waitrose.presscentre.com/Content/Detail.asp?ReleaseID=903&NewsAreaID=2>, 1 February 2009

⁴⁸ Supermarket Meat Retailing: A special report prepared by The Meat and Livestock Commission on behalf of The National Farmers' Union, March 2008, p.28

⁴⁹ Joanne Denny-Finch, Chief Executive, ISG, Speech to the Semex Conference, January 2009

⁵⁰ Labelling: competitiveness, consumer information and better regulation for the EU, A DG SANCO Consultative Document, February 2006

⁵¹ <http://www.eubusiness.com/news-eu/1233756122.83>

Q. Isn't this just protectionism by the back-door?

A. 'Honest Food' is not about protectionism – consumers should be free to choose food from any country. After all, British farmers have important export markets. But real choice requires real information. Clear labelling will empower consumers, not restrict their options. It is precisely because of the free market that we should be advocating honest labelling. Following the welcome reforms of the Common Agricultural Policy, which broke the link between subsidies and production, farmers rely on their ability to reconnect with the marketplace. This move will not hamper the internal market but enable farmers to compete fairly in it, by facilitating consumer choice.

Q. What makes you think you can succeed?

A. Under EU regulation 2000/13/EC on the marketing of foodstuffs, Member States can require the labelling of origin when the absence of such information could mislead or confuse the consumer. We will mount a case on the grounds that consumers are being misled by current food labelling or lack thereof, citing the Spanish precedent and invoking expert opinion and consumer research, which both abounds and is permitted under ECJ case law as evidence of liability to mislead. The role of a Government that cares about British farming is not to sit on its hands and say “there's nothing we can do”, but instead to test these rules and if necessary challenge and change them.

Q. Isn't a mandatory labelling of meat ingredients disproportionate and unworkable?

A. We accept that new regulations must be proportionate. We will require the labelling of meat ingredients when they represent 10 per cent or more of a product. There are many excellent examples of country of origin labelling of processed foods and ready meals which demonstrates that this is entirely possible.

Q. Wouldn't this impose considerable extra burdens on retailers and manufacturers?

A. The work that many supermarkets are already doing shows that it is quite possible to provide clear and unambiguous country of origin labelling. It is technically and logistically possible to provide true origin information on products even those with ingredients which have variable sourcing. Indeed, traceability systems are legally required under General Food Law and these allow country of origin to be determined for all ingredients. A study in the United States put the increased cost of origin labelling for meat at as little as 0.01 per cent while the EU has said that the small and medium size enterprises (SMEs) consulted would expect a positive impact from compulsory origin labelling.⁵²

Q. Won't British exporters suffer under these new rules?

A. Should other countries seek to pursue mandatory country of origin labelling then meat exported from the UK would have to be labelled as British. Honest labelling cannot end at national borders. However, these rules would be overwhelmingly beneficial to UK agriculture.⁵³

⁵² DG Agriculture and Rural Development “Mandatory Labelling for EU Origin”, October 2008
http://ec.europa.eu/agriculture/quality/policy/workingdocs/label_en.pdf

⁵³ Defra. Agriculture in the UK 2007, p.68

Q. Why are you introducing new regulations that will require businesses to change their labelling practices?

A. Many businesses already provide very clear country of origin labelling without complaining about extra costs. Indeed, SMEs consulted on origin labelling by the EU said they would expect a positive impact from compulsory origin labelling.

Q. Why are you not extending this to all food?

A. We want to focus our initial efforts on the products where current labelling practice is misleading. Certain fresh fruit and vegetables are already required to indicate their country of origin at all points in the marketing chain.⁵⁴

⁵⁴ <http://www.food.gov.uk/multimedia/pdfs/originlabellingguidance.pdf>

7. ANNEX

LEGAL BACKGROUND

Current labelling regulations are a confusing mess. There is legislation that requires origin labelling for a number of specific foodstuffs but not others: beef, but not pork or lamb; chicken from Brazil, but not from Belgium; honey, but not jam; and certain fruit and vegetables.⁵⁵

The basis of current EU legislation governing the labelling of foodstuffs, and particularly the origin of foodstuffs, is found in Directive 2000/13/EC, which states that:

In accordance with Articles 4 to 17 and subject to the exceptions contained therein, indication of the following particulars alone shall be compulsory on the labelling of foodstuffs:

*(8) Particulars of the place of origin or provenance where failure to give such particulars might mislead the consumer to a material degree as to the true origin or provenance of the foodstuff;*⁵⁶

There would appear to be a degree of flexibility in how ‘mislead the customer’ could be interpreted and this is something which other Member States have exploited. In 2003 a Spanish decree providing for compulsory labelling of the origin of canned asparagus was approved by the Commission “given the reasonable assumption by consumers that unless otherwise stated, it had Spanish origin.”⁵⁷

Although there is no statutory definition of “place of origin or provenance” in the Food Labelling Regulations 1996, The Trade Descriptions Act 1968 states that:

*“goods are deemed to have been manufactured or produced in the country in which they last underwent a treatment or process resulting in a substantial change.”*⁵⁸

Recent Food Standards Agency guidance states: “Consumers expect other meat labelled ‘Produce of...’, ‘Product of...’, ‘Produced in ...’, ‘Origin...’, ‘British’, etc. to come from animals that have been born, reared and slaughtered in those countries and we consider this to be good practice to label accordingly.”⁵⁹ We believe this guidance must be the basis of statutory requirements, as it is for beef.⁶⁰

Beef labelling regulations were first introduced in 1997 as a reaction to the BSE crisis and have since been reinforced. In general, all beef and veal must indicate the country - the state - of origin, by reference to the places where the animal was born, reared and slaughtered.

There is currently a review of EU labelling legislation but this does not seek to extend the items to which compulsory origin labelling applies, and is not, in any event, expected to be completed until 2010.⁶¹

⁵⁵ Hansard, 8 May 2007: Column 37W and <http://www.food.gov.uk/multimedia/pdfs/originlabellingguidance.pdf>

⁵⁶ http://eur-lex.europa.eu/pri/en/oj/dat/2000/l_109/l_10920000506en00290042.pdf

⁵⁷ DG Agriculture and Rural Development “Mandatory Labelling for EU Origin”, October 2008
http://ec.europa.eu/agriculture/quality/policy/workingdocs/label_en.pdf

⁵⁸ FSA An Assessment of the Uptake of Food Standards Agency Guidance on Country of Origin Labelling November 2005

⁵⁹ FSA, COUNTRY OF ORIGIN, LABELLING GUIDANCE, October 2008

⁶⁰ <http://www.nfuonline.com/Documents/Livestock/Retailer%20Report%20final%20version%20mar08.pdf>

⁶¹ <http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/comments-com-petition.pdf>

LEGAL OPINION

Lawrence Graham LLP - advice to the Conservative Party:

“The current position under the Food Labelling Regulations (which derive from Directive 2000/13) is that food to be delivered to the ultimate consumer or a catering establishment must be marked with *“particulars of the place of origin or provenance of the food if failure to give such particulars might mislead a purchaser to a material degree as to the true origin or provenance of the food”*. “Place of origin or provenance” is not defined in relation to food labelling, but more generally the country of origin of goods is deemed to be the place of last substantial change. In order that this not lead to confusion, the Food Standard Agency’s guidance states that *“if the place that is declared as the origin of the food (according to the principle of last substantial change) is not the same as the place of origin of its primary ingredients, in order not to be misleading it may be necessary to provide more information of those ingredients.”* The guidance gives as an example pork sausages made in Britain using pork from countries outside the UK which could be marked as “Pork Sausages” and “Made in Britain from Dutch pork”. Therefore there is already Government guidance in place that supports your position.”

“In addition, as you know, the European Commission has proposed revised legislation on food labelling. The draft Regulation proposes to keep country of origin labelling voluntary unless its absence could mislead consumers, in which case it becomes mandatory. Article 35(3) provides that *“where the country of origin or the place of provenance of the food is not the same as the one of its primary ingredient(s), the country of origin or place of provenance of those ingredient(s) shall also be given.”* Article 35(4) provides that *“for meat, other than beef and veal, the indication on the country of origin or place of provenance may be given as a single place only where animals have been born, reared and slaughtered in the same country or place. In other cases information on each of the different places of birth, rearing and slaughter shall be given.”* Article 38(1) provides that *“Member States may introduce measures concerning the mandatory indication of the country of origin or place of provenance of foods only where there is a proven link between certain qualities of the food and its origin or provenance. When notifying such measures to the Commission, Member States shall provide evidence that the majority of consumers attach significant value to the provision of this information.”* All of these provisions are in line with your proposals.”

“These facts are strong evidence that your proposal would not raise any issue under EC law. To achieve your objectives before the new Regulation becomes law (which could take a number of years), the UK would need to adopt its own new legislation, which would require a positive opinion from the Commission under Directive 2000/13. The fact that consumers are liable to be misled by current labelling and that it is important to consumers to know the origin of meat ingredients in products containing meat (e.g. so that they have comfort regarding the welfare of the livestock) should assist in persuading the Commission to give a positive opinion, although this cannot be predicted with certainty because of the political pressures that will no doubt be brought to bear on the Commission’s decision-making process.”⁶²

62 Lawrence Graham LLP, 11 February 2009

National Farmers' Union (NFU)

“As we understand it, we would consider it both possible and justified for the current UK Food Labelling Regulation 1996 to be amended in order to include a definition of country of origin as it applies to meat and meat products, and to make it mandatory to label meat and meat products with the country of origin of the animal used to produce the food. We also believe that this would be possible and consistent with the EU Directive 2000/13 on labelling of foodstuffs under which the 1996 Act was made and would not contradict its intention to prevent protectionism. Indeed, we believe such a mandate is essential in order for the requirement that consumers should not be misled (under that Directive and under EU General Food Law regulations) to be complied with. As it stands, the current law on when origin labelling is required can, and does, lead to consumers being misled about the country origin of the animals used to produce the food.”⁶³

⁶³ Dr Helen Ferrier, NFU Chief Science and Regulatory Affairs Adviser, 8 February 2009

