

3 May 2019

Submission to:
Department of Agriculture and Water Resources
Via email: exportlegislation@agriculture.gov.au

Draft Export Control Rules 2020 – Milk and Milk Products

Introduction

The Infant Nutrition Council Ltd (hereafter INC) is the association for the infant formula and toddler milk drink industry in Australia and New Zealand. The more than 40 council members include some of the most respected food companies in Australia and internationally. INC plays a key role in ensuring compliance and safety in the industry. All members abide by a Code of Conduct that provides direction on industry issues including the support of breastfeeding, food regulations and standards, food safety issues, and company representatives' conduct and activities. INC advocates for optimal nutrition for all infants: breastfeeding first, and, when needed, infant formula as the only suitable alternative.

The INC appreciates the opportunity to make a submission to this consultation.

Overall position

INC welcomes the review of the Export Control Rules 2020 – Milk and Milk Products which cover infant formula ¹ and toddler milk drinks.

Specifically, INC supports the current draft rule for Part 3 – Prescribed Goods which impacts on the 10kg rule for export.

INC supports the objective of the legislation to enable trade by ensuring that export commodities meet importing country requirements and are fit for purpose. If the commodity is a food, it must be:

- fit for human consumption
- accurately described and labelled
- fully traceable, if necessary.

INC considers that infant formula products and toddler milk drinks manufactured for the Australian market meet these requirements.

¹ Infant formula products includes infant formula (0 – 12 months) and follow-on formula (6 – 12 months).

INC asserts that there should be a minimal regulatory intervention in the supply chain and if there is a demonstrated failure of the system, any changes in regulation must be carefully thought through in consultation with key stakeholders, including industry.

Background

The Australian infant formula products and toddler milk drinks industry is strong and growing due to increased demand and trust in premium dairy products sourced from Australia.

As high value-added products, Infant formula products and toddler milk drinks have played an important role in the development and growth of Australia's dairy global exports.

In 2018, Australia's total export of infant formula products and toddler milk drinks (ingredient and retailed products) was valued over A\$758million, which was 22% of the total dairy exports. In 2018, the total dairy products export value was A\$3.4billion, according to Dairy Australia's ([Australian Dairy Industry In Focus 2018](#)). Compared to 2017, Australia's export of infant formula products and toddler milk drinks (ingredient + retailed) increased over 57% in 2018. The top five export markets for Australia are China, Hong Kong, Taiwan, Vietnam, and Korea.

The Chinese Market

Over the past decade, Australia has seen significant demand from overseas shoppers, especially from Chinese consumers. This has been driven by a number of factors including, but not limited to, the perceived high quality and food safety of Australian sourced infant formula products and toddler milk drink branded products; the growth in cross-broader ecommerce trade in China; the China Australia Free Trade Agreement; and a growing Australian Chinese community. This has created an opportunity for the Chinese importers and the 'Daigou' sellers to channel safe Australian (and overseas) quality produce into China via an immediate market entry mode.

China has shown consistent growth as an importing country taking over 90% of Australia's worldwide infant formula products and toddler milk drinks exports which by value totalled over \$AUD 787million. In 2018, Australia exported \$AUD220 million retailed infant formula products and toddler milk drinks to China. Australia ranked as the 7th largest exporter of retailed infant formula products and toddler milk drinks to China.

Australian infant formula products and toddler milk drinks are also available in China through cross-border e-commerce (CBEC) channels such as Tmall (<http://about.tmall.com>), JD Worldwide (<https://global.jd.com/>), WeChat (<https://web.wechat.com/>) and via Daigou (personal shoppers).

Daigou trade is a term used to describe a form of cross-border export for products purchased for customers in China. This isn't an organised distribution channel but refers to the export route to market used by a discreet group of shoppers (daigou) who purchase through Australian retail and specialised gift shops and operate largely through Chinese language social media platforms.

This trend has contributed to the development of the Australian dairy sector and provided value across the sector and the broader economy.

From a survey conducted by INC, cross-border ecommerce trade contributes significantly towards total sales for some companies. INC estimates that the Diagou market may account for over 25% of the total retailed infant formula products and toddler milk drink exports from Australia to China.

The value and volume of CBEC sales are substantial and together with ingredient and retailed product sales, generate huge export revenue that supports industry and employment opportunities from Australia.

Specific comments

Objective of the legislation

As noted above, the objective of Australia's export legislation is to enable trade by ensuring that export commodities meet importing country requirements and are fit for purpose. If the commodity is a food, it must be:

- fit for human consumption
- accurately described and labelled
- fully traceable, if necessary.

INC considers that all infant formula products and toddler milk drinks manufactured for the Australian market are explicitly required to meet these requirements through the legislative framework set out in the Australia New Zealand Food Standard Code, Australian Consumer Law (ACL) as well as other relevant legislation applicable to the market.

Fit for human consumption

Infant formula products are manufactured under good manufacturing practices (GMP) with stringent controls in place to ensure they are safe and suitable as required under Australian food regulation. Manufacturing facilities have HACCP based food safety programs in place which are audited by State and Territory authorities or 3rd party companies to ensure compliance.

Accurately described and labelled

Infant formula products must comply with the requirements of the Australia New Zealand Food Standards Code (the Code), which sets out detailed requirements including composition, identification and labelling.

Traceability

Traceability is maintained through product identification coding and in the event of a recall being required due to a food safety issue, the brand owner (Sponsor) must issue recall notices in both Australia and other export markets as required.

10kg exemption for prescribed goods

For the purpose of subsection 28(3) of the Export Control Act 1982, MI-09 Milk and milk products that are prescribed goods fall under the following exemption:

MI-09(2)(i) milk or milk products of any other kind exported in a consignment of not more than 10 kilograms.

The 10kg rule has supported considerable growth for the Australian dairy industry with broader benefits to the Australian economy. It has allowed Australia to build up several successful infant formula brands, and for Chinese consumers to recognise Australia as a country where premium dairy products are produced. It has also provided opportunity for small exporters with an easier route to market.

A recent Mintel report showed that 1 in 4 Chinese consumers shopping online had bought food from Australia and this is growing. <https://www.mintel.com/press-centre/retail-press-centre/opportunities-for-australia-and-new-zealand-among-chinese>.

As the dairy and infant formula industry continues to focus on growth opportunities for processed dairy food products, including infant formula product and toddler milk drink brands, the role of Australian Chinese shoppers make an important and valued contribution.

The Diagou trade into China has a valuable role which has been supported in part by the 10kg rule for prescribed milk and milk products and any proposed change to this exemption could have a significant impact on the future of exports of infant formula products to China.

INC understands the focus of the review is not related to the movement of infant formula which is manufactured under strict conditions of good manufacturing practices (GMP) in registered establishments for the Australian market and export to China.

At this point in time, the 10kg rule (as presented in the draft rules) will not impact the movement of infant formula that is purchased off the shelf and sent to China.

INC supports the status quo of the 10kg rule and, as this is a significant issue, any proposed changes in relation to the rule will require extensive public consultation with all key stakeholders.

Thank you for the opportunity to provide this input to the Department. If you require any further information, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "Jan Carey". The signature is written in a cursive, flowing style.

Jan Carey
CEO