

**MEMORANDUM OF UNDERSTANDING GOVERNING THE WAIVER
OF IMPORT FOOD SAFETY INSPECTION OF DAIRY PRODUCTS
BETWEEN TAIWAN AND AUSTRALIA**

BETWEEN

THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN AUSTRALIA

AND

THE AUSTRALIAN OFFICE IN TAIPEI

BACKGROUND

This Memorandum of Understanding (MOU) embodies understandings between the Taipei Economic and Cultural Office (TECO) in Australia and the Australian Office in Taipei (hereinafter referred to as the Participants) and sets out a framework through which the Australian Government Department of Agriculture and Water Resources, may work with the Food and Drug Administration (FDA) in the Ministry of Health and Welfare, Taiwan, in order to facilitate the trade of dairy products between Taiwan and Australia through the reduction or waiver of food safety inspections. The Department of Agriculture and Water Resources and FDA are collectively referred to as the Competent Authorities.

Through this MOU, the Participants intend to:

- ensure that dairy products traded between Taiwan and Australia are safe, wholesome and meet relevant laws, regulations and requirements established by Taiwan and Australia (hereinafter referred to as Requirements); and
- recognise that Taiwan's export inspection and certification systems, as applied to dairy products, meet Australia's Requirements subject to successful completion of an assessment of Taiwan's food certification and inspection system; and where possible under the *Imported Food Control Act* 1992, reduce the frequency of the import food safety inspection in the event that the export of dairy products from Taiwan to Australia is accompanied by export certification which is issued by the FDA (hereinafter referred to as the Certificate); and

- recognise that Australia's export inspection and certification systems, as applied to dairy products, meet Taiwan's Requirements; and reduce the frequency of the import food safety inspection in the event that the export of dairy products from Australia to Taiwan is accompanied by export certification which is issued by the Department of Agriculture and Water Resources (hereinafter referred to as the Certificate).
- These intentions embodied in this MOU are set out as follows:

1. SCOPE AND EFFECT OF THIS MEMORANDUM OF UNDERSTANDING

This MOU covers dairy products which are produced and made in the territories of the Participants and accompanied by a Certificate. A Certificate will not be issued unless the dairy products concerned meet the Requirements. Harmonised System Codes of dairy products that are subject to this MOU are listed in Annex to this MOU.

2. OPERATION OF THIS MEMORANDUM OF UNDERSTANDING

Nothing in this MOU affects in any way, the rights and obligations of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and Australia under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement").

3. RESPONSIBILITIES OF THE COMPETENT AUTHORITIES

3.1 The Competent Authorities will operate according to their own export inspection and certification programs covering the export of dairy products, as described in:

In the case of the FDA, the Act Governing Food Safety and Sanitation and associated Standards, including the Sanitary Standard for Milk and Milk Products, Pesticide Residue Limits in Meat Products and Scope and Application Standards of Food Additives, that also require that dairy products exported from Taiwan meet government requirements of an importing authority, in this case, the Department of Agriculture and Water

In the case of the Department of Agriculture and Water Resources, the *Export Control Act 1982* and associated Regulations and Orders, including the *Export Control (Milk and Milk Products) Orders 2005* that also require that dairy products exported from Australia meet government requirements of an importing authority, in this case, FDA. The Department of Agriculture and Water Resources will only certify dairy products made in Australia that comply with the *Export Control Act 1982* and associated Regulations and Orders, including the *Export Control (Milk and Milk Products) Orders 2005*.

3.2 In the operation of the Requirements, the Competent Authorities will mutually recognise each other as a foreign importing authority that is capable of providing inspection and certification of dairy products such that:

The import food safety inspection upon the trade of dairy products from Australia to Taiwan will be reduced to not more than 2% of import shipments.

The import food safety inspection upon the trade of dairy products from Taiwan to Australia will be reduced to a percentage, in line with the *Imported Food Control Act 1992*, after Australia recognises that Taiwan's export inspection and certification systems as applied to dairy products, meet Australia's requirements subject to successful completion of an assessment of Taiwan's food certification and inspection system.

3.3 Each Competent Authority will immediately notify the other in writing where a breach of the Requirements is found.

3.4 The Competent Authorities will inform each other in writing of any proposed variations to the Requirements.

3.5 The Department of Agriculture and Water Resources will prepare an annual report for the FDA on the compliance with the Requirements of establishments registered by the Department of Agriculture and Water Resources to export dairy products and their products, when these have been exported to Taiwan the preceding year.

3.6 In the instance that a systems audit is required to initiate and to continue the waived or reduced frequency of import food safety inspection, each Participant should cover its expenses associated with conducting the audit of the other

Participant's systems unless otherwise mutually decided.

4. ASSESSMENT AND VERIFICATION PROVISIONS

4.1 Each Competent Authority will check the validity of Certificates accompanying shipments of dairy products issued by the other Competent Authority.

4.2 Each Competent Authority will conduct random verification sampling of dairy products exported from the territory of the other Participant under this MOU. The verification sampling will be conducted at the following rate:

- a) For imports of Australian dairy products into Taiwan, at a rate of no more than 2 percent of shipments arriving.
- b) For imports of Taiwanese dairy products into Australia, at the most favourable rate available under the *Imported Food Control Act 1992*.

In the event that a breach of the Requirements is found by a Competent Authority, the rate thereof may be modified subject to review and the discretion of the Competent Authority concerned prior to the expiration of the every three (3) year period provided in Paragraph 9 of this MOU.

4.3 These assessments will be conducted taking into account the "Guidelines on procedures for conducting an assessment and verification by an importing country of inspection and certification systems of an exporting country" contained in the Annex to the Codex Alimentarius Commission (Codex) "Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems" (CAC/GL 26-1997).

5. TRANSPARENCY, INFORMATION EXCHANGE AND COOPERATION

The Competent Authorities will cooperate and communicate as appropriate in relation to the operation of this MOU. This will include, but not be limited to, communication and cooperation on legislation, policies, procedures and guidelines concerning enforcement and inspection. Specific information that will be exchanged to facilitate the continued operation of this MOU includes:

- (a) Descriptions of adverse findings during inspections conducted by a Competent Authority that may cause product in trade to fail the Requirements.

- (a) Descriptions of adverse findings during inspections conducted by a Competent Authority that may cause product in trade to fail the Requirements.
- (b) Descriptions of adverse findings of random compliance checks carried out by a Competent Authority and the disposition of implicated product and inspection rates that may be applicable to subsequent shipments.
- (c) Falsification of Certificates.
- (d) Any standard, guideline and their subsequent amendment made by the Codex where the commitments of the Competent Authorities under this MOU may be involved.

6. NOTIFICATIONS

The Competent Authorities will utilise the Codex "Guidelines for the Exchange of Information in Food Control Emergency Situations" (CAC/GL 19-1995) when there is an identified risk of serious public health effects related to the trade of dairy products between Taiwan and Australia.

7. DISPUTE SETTLEMENT

In the event of disagreement between the Participants in relation to the interpretation or application of this MOU, the Participants should seek consultations between the Competent Authorities, without prejudice to the rights and obligations of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and Australia under the WTO Agreement, or to the Participants' rights of resort to the dispute settlement mechanisms of other international organisations or to those that are established under any other international agreement, or to relevant dispute settlement mechanisms applicable in the territories of the Competent Authorities.

8. LIAISON OFFICIALS

Taiwan

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Food and Drug Administration
Ministry of Health and Welfare
No. 161-2, Kunyang St.,
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R.O.C.

Australia

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Export Standards Branch
Department of Agriculture and Water
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GPO Box 858
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AUSTRALIA

9. REVIEW, MODIFICATION AND TERMINATION

The provisions of this MOU will be reviewed every three (3) years from the date of coming into effect.

This MOU may be amended and supplemented as mutually consented to in writing by both Participants at any time.

Either Participant may terminate this MOU at any time by giving six (6) months' prior written notice to the other Participant. This MOU will cease to have effect six (6) months after receipt thereof by the other Participant.

10. COMING INTO EFFECT

This MOU will come into effect on the date of the last signature, and replace the Memorandum of Understanding Governing the Waiver of Import Food Safety Inspection of Dairy Products between Taiwan and Australia between the Taipei Economic and Cultural Office in Australia and the Australian Office in Taipei signed on 22 November 2010.

Signed in two originals in the English language.

**For Taipei Economic and
Cultural Office in Australia**

David T. Lee

Dr David Lee

Representative, TECO

Date: *4/29/2016*

Place: *TAIPEI*

**For Australian
Office in Taipei**

Catherine Raper

Ms Catherine Raper

Representative, AO

Date: *6/5/2016*

Place: *TAIPEI*

ANNEX

DAIRY PRODUCTS SUBJECT TO THE MOU TAIWAN-AUSTRALIA

Harmonised System Codes (HS Codes)

Chapter 4 dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included.

- 0401 Milk and cream, not concentrated nor containing added sugar or other sweetening matter.
- 0402 Milk and cream, concentrated or containing added sugar or other sweetening matter
- 0403 Buttermilk, curdled milk and cream, Yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa.
- 0404 Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included.
- 0405 Butter and other fats and oils derived from milk; dairy spreads.
- 0406 Cheese and curd.

Chapter 17 sugars and sugar confectionery

- 1702 Other sugars, including chemically pure lactose, maltose, glucose and, fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel
 - 1702.1 Lactose and lactose syrup.

Chapter 19 preparations of cereals, flour, starch or milk; pastry cooks' products

- 1901 Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos.04.01 to 04.04, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified.
 - 1901.10.00.10-4 Milk powder for infant use (incl. Follow up formula), milk for infant use, put up for retail sale.
 - 1901.90.21.00-4 Prepared milk powder, milk food canned or packaged 5lbs and under for retail.

- 1901.90.22.00-3 Other milk powder, prepared.
- 1901.90.24.00-1 Cream, evaporated or sterilized.
- 1901.90.25.00-3 Milk, prepared, containing added sugar or other sweetening matter.
- 1901.90.26.00-9 Milk, prepared, not containing added sugar or other sweetening matter.
- 1901.90.27.00-8 Flavoured milk.
- 1901.90.29.00-6 Other milk, prepared.
- 1901.90.30.00-3 Mixes and bases with a base of milk for making ice cream.

Chapter 21 miscellaneous edible preparations

- 2105 Ice cream and other edible ice, whether or not containing cocoa.
 - 2105.00.10.00-8 Ice cream, whether or not containing cocoa.

Chapter 35 albuminoidal substances; modified starches; glues; enzymes.

- 3501 Casein, caseinates and other casein derivatives; caseinglues.
- 3502 Albumins, (including concentrates of two or more whey proteins, containing by weight more than 80% whey proteins, calculated on the dry matter), albuminates and other albumin derivatives.
 - 3502.20.00.00-3 Milk albumin, including concentrates of two or more whey proteins.
 - 3502.90.00.00-8 Other albumins, (including concentrates of two or more whey proteins, containing by weight more than 80% whey proteins, calculated on the dry matter), albuminates and other albumin derivatives.

Source: Bureau of Foreign Trade, Ministry of Economic Affairs, Taiwan