Australian Dairy Industry Council Inc.

18 November 2005

Mr Paul Grigson
First Assistant Secretary
South and South East-Asia Division
Department of Foreign Affairs and Trade
RG Casey Building
BARTON ACT 0221

Sent by e-mail to damien.miller@dfat.gov.au

Dear Mr Grigson,

TAFTA JOINT COMMISSION 2005: DAIRY INDUSTRY COMMENTS

Thank you for your letters of 3 November 2005 to the Australian Dairy Industry Council and Dairy Australia, seeking comments from the dairy industry on the effectiveness of the implementation during 2005 of the Thai Australia Free Trade Agreement. The following has been prepared in consultation with the Dairy Australia and the major exporters of Australian dairy products to Thailand.

Exporters of Australian dairy products to Thailand and the major Thai importers of dairy products have generally indicated that the conclusion of TAFTA has not yet had any impact on their commercial planning. This is because for most dairy lines the phasing in of preferences is over quite a long period of time. This means that for most items the TAFTA margin of preference is still quite small. As the phase in times for most dairy lines is ten or fifteen years, the margin will continue to be small for the next three or four years.

The ability to make plans around preferences is further reduced by the potential for the Special Safe Guard to be triggered which would see the preferential tariff snap back to the MFN rate. As this could happen at any time during the year once triggers are reached it is safer to operate on the assumption that the preference will not apply. People have indicated, therefore, that they are generally not factoring the preference into commercial decisions. This attitude is likely to prevail for a number of years until the SSGs are expanded to a level where they are less likely to be triggered. For some tariff lines, such as fresh, grated and powdered cheese (for which the SSG only reaches 103 tonnes in 2020), concern over the SSG being triggered will remain until the SSG is removed at the end of the phase in period.

The ability to trade on preferences has been further eroded with implementation from July 2005 of a Free Trade Agreement between Thailand and our largest competitor in the Thai dairy market, New Zealand. As Australia and New Zealand supply most of Thailand's dairy imports, TAFTA has effectively only served to ensure that we are not unduly disadvantaged by NZ preferences. There are, however, some differences between TAFTA and TNZFTA. New Zealand has considerably larger trigger levels for whole milk powder (starting at 25,000 tonnes compared to 9,500 tonnes for Australia) and fresh, grated and powdered cheeses (starting at 216 tonnes compared to just 50 tonnes for Australia).

The Australian dairy industry has urged our negotiators for the Australia-ASEAN-NZ FTA to take the opportunity presented by the negotiations to address this inequity, reduce the phase in times for dairy products and at a minimum expand the SSGs trigger volumes to levels which provide real commercial opportunities.

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Australia's dairy trade with Thailand has in the past been dominated by trade in Skim Milk Powder which traditionally accounts for more than half of the value of Australia's dairy exports to Thailand. However, since the conclusion of the Uruguay Round and the associated imposition of quotas this trade has been severely disrupted by the Thai Government's method of administration of the quotas. This has brought uncertainties and restrictions on the ability to market SMP in Thailand which has reduced the attractiveness of this trade as Australian exporters have sought more profitable and sustainable markets for their dairy products.

TAFTA provides for an Australian SMP quota of 2,200 tonnes increasing to 3,523 tonnes by 2024. These numbers are quite small given that Thailand currently imports about 70,000 tonnes of SMP each year. Furthermore, this quota is of limited value to Australian exporters as the Thai Government has decided to administer the TAFTA quotas in the same way that they administer the MFN quotas. That means that they are issued to Thai importers with strict end use provisions at a time during the year that suits Thai politics rather than commercial requirements.

Thailand has also agreed to provide Australia with quotas for liquid milk and cream. These quotas were issued in 2005 on a license on demand basis. Even though none of the quota had been filled, the Thais arbitrarily closed applications on 10 March 2005. The Australian dairy industry was not advised of this until after the event. As a result of the Thai behaviour there has been no up take of this quota.

As the Thais have demonstrated in 2005 that they are not able to administer dairy quotas in a manner which encourages good commercial outcomes, we should again urge them to give the quotas to the Australian Government to administer in the same way that some dairy quotas to the EU and the US are administered.

In addition to the many tariff issues that restricted trade with Thailand during 2005 we have been faced with a number of non-tariff problems. In particular we have seen an increase in unreasonable chemical and microbiological testing requirements for imported dairy products.

This included a range of tests under so called "Regulation 11" which was postponed shortly before its introduction in January 2005, then again in March and again in June. It is now scheduled for implementation in January 2006. Every time these deadlines approach, exporters have the choice of bearing the cost of the extra tests, postponing trade until the situation is again clarified, or exporting with the risk that product will be rejected on arrival or retained and tested at the exporter's expense. Thailand has effectively agreed that the tests are not necessary to ensure public health. However, by not rescinding the regulation Thailand has allowed it to continue to disrupt the trade.

In another example, exporters of infant formula have had their product tested in Thailand for the bacteria *B. cereus*. Thailand imposed a limit of 10 organisms per gram of product for this bacteria which is 10 times more stringent than the usual international standard (used by Australia, Japan, the US and all other countries where a standard is applied) of 100 organisms per gram. The imposition of this requirement in 2005 has severely disrupted trade and resulted in considerable unnecessary costs to Australian exporters.

Australian dairy imports to Thailand in the first three quarters of 2005 were worth $57 million which was 9% higher than in the same period in 2004. It should be noted, however, that 2004 was a particularly poor year due to the drought and problems with SMP quota allocations. As a result of these factors, exports in 2004 were only $79 million compared to $142 million in 2002 just prior to the drought. It is probable, therefore, that the increase in the first year of TAFTA is as a result of recovery from drought rather than as a result of any real improvements in the trading conditions between Australia and Thailand. Indeed exports of just $57 million in the first three quarters of 2005 is the lowest value of exports of dairy products to Thailand for the first three quarters of any calendar year since 1995 (apart from the two drought years 2003 and 2004).

We look to the first TAFTA Joint Commission to resolve the problems we have experienced with quota administration and the issues surrounding testing of dairy products on entering Thailand. We look to the Australia-ASEAN-NZ FTA negotiations to improve the deal that the Australian dairy industry got from TAFTA. If you would like to discuss the details of any of the issues raised in this letter please contact Phill Goode at Dairy Australia (Tel: 03 9694 3817 or pgoode@dairyaustralia.com.au).

Yours sincerely,

Allan Burgess
Chairman

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