



Australian Dairy Industry Council Inc.

5 June 2015

Ms. Frances Lisson
First Assistant Secretary
Free Trade Agreement Division
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

Cc: Mr. Peter Roberts, Assistant Secretary, North Asia Goods Branch, DFAT
Mr. Simon Murnane, Assistant Secretary, Bilateral Engagement and Regional Trade
Negotiations, Department of Agriculture

Australia – India Comprehensive Economic Cooperation Agreement: Australian dairy industry revised submission

Dear Frances,

The Australian dairy industry (Industry) appreciates the opportunity to provide the attached, updated submission to assist in negotiations with India on a Comprehensive Economic Cooperation Agreement (CECA).

CECA offers the opportunity for respective dairy sectors to develop a mutually beneficial partnership arrangement that will hasten the modernization of the Indian sector by improving its productivity, profitability and competitiveness through increased trade and investment. This in turn contributes to improving India's food security.

India is the world's largest producer of milk producing an estimated 135 million tons of milk in 2014 or about fifteen times the volume of milk produced in Australia. The National Dairy Plan, instituted in 2012 aims to grow production at an ambitious compound annual growth rate of four per cent to meet demand that is estimated to be 200 million tonnes by fiscal year 2021-22.

In spite of impressive milk production growth industry stakeholders widely believe that India is unlikely to be able to produce sufficient milk to satisfy the growing consumer demand in the medium term.

The demand for dairy products is expanding rapidly and with a cultural history of dairy consumption there are many opportunities opening up as the economy develops; underpinned by the emergence of a large and prosperous middle class with expanding household purchasing power.

The Industry believes that CECA will offer a wider variety of opportunities for Australian dairy exporters to work collaboratively with their importing partners to satisfy this growth in demand including small and medium sized enterprises (SMEs), some of whom may be new to exporting.

The Australian dairy industry is a reliable exporter of high quality, specialised ingredients and commodity products. As such the certainty provided by a bilateral agreement will facilitate the development of value adding supply chains with Indian processors to either expand or create market niches for foods containing dairy ingredients.

The Industry believes that it is important to negotiate a CECA agreement which provides free access for all dairy products. A suggested schedule for improving market access for dairy products is outlined in the section: 'Structure of a Dairy Deal'.

In respect of non-tariff barriers (NTBs) to trade the Industry is strongly supportive of a transparent, sound science based approach underpinned by the principles of regulatory cooperation and where feasible, regulatory coherence. Foremost is recognition of Australia's food safety and animal health and welfare standards.

CECA can provide Australian dairy exporters with protection against likely attempts by the EU to restrict the use of common cheeses, for example cheddar, mozzarella, parmesan and gouda. The EU has been aggressive in a number of forums such as WIPO (Geneva Agreement) in pursuing their policy goal of international Geographic Indications (GI) recognition, to complement the provisions of their bilateral agreements with, for example, Korea and Singapore. The EU has already encouraged India to establish their own GI register.

The dairy industry is willing to assist the Department with any further information that might be required to facilitate these negotiations. Please contact Peter Myers at Dairy Australia on pmyers@dairyaustralia.com.au or telephone 03 9694 3817.

The Australian dairy industry is also prepared to assist in advocacy work, by working collaboratively with DFAT in appropriate fora to facilitate a timely outcome to the negotiation.

In conclusion the Industry believes that an ambitious and comprehensive outcome will hasten the modernization of the Indian dairy sector and deliver enduring trade benefits to the Australian industry.

Yours sincerely,



Noel Campbell
Chairman
Australian Dairy Industry Council

cc: ADF, ADPF and Dairy Australia

The Australian Dairy Industry Council (ADIC) welcomes the opportunity to present this updated submission in respect of free trade agreement negotiations between Australia and India.

The ADIC is the national peak policy body for the Australian dairy industry and represents all sectors of industry on issues of national and international importance. Constituent organizations; the Australian Dairy Farmers Limited (ADF) and the Australian Dairy Products Federation (ADPF) represent the interests of dairy farmers and manufacturers, processors and traders respectively.

Australian dairy is a \$13 billion farm, manufacturing and export industry. Features are:

- A farm gate value of \$4 billion;
- Most processing occurs near the source of production;
- Processing of milk is an important, value adding industry especially in regional Australia sustainably creating jobs and wealth along the whole of the supply chain from farm inputs to the retail and food service counters;
- Australia's 6,300 dairy farmers will produce an estimated 9.5 billion litres in the 2014-15 season – ending on 30th June;
- 43,000 Australians are directly employed on farms and in dairy processing;
- More than 100,000 Australians rely on dairy for their livelihoods, including vets, scientists, mechanics, financial advisors and feed suppliers;
- 98 per cent of Australian dairy farms are family owned businesses;
- Our dairy quality and safety processes are among the most advanced in the world;
- Australia is the fourth largest dairy exporter in the world, accounting for seven per cent of global trade;
- Close to sixty per cent of Australian dairy product is sold on the domestic market, with the remainder being exported; and
- More than 125 Australian companies export Australian dairy products to more than 100 countries around the world.

With free markets and an open border the farm gate price for milk in Australia is primarily determined by the returns that companies can achieve on the export market.

To maximise potential returns from trade exporters need access to a broad range of markets on terms equal to or better than those offered to Australia's three main competitors; the EU, New Zealand and the USA. Collectively with Australia they account more than three quarters of dairy trade on a milk equivalent basis.

It is noted in this regard that both the EU and New Zealand are currently seeking to progress free trade agreements with India. There is a major incentive to be the first nation to secure a deal involving commercially meaningful access for dairy products as it will provide an important competitive advantage.

Profile of the Indian Dairy Industry and influential growth factors:

Supply:

India is the world's largest individual producer of milk, producing an estimated 135 million tons of bovine milk¹ in 2014. Currently up to 75 per cent of milk is procured from small and marginal farmers; sometimes with only a couple of milking cows. These farmers will be major contributors to milk production until well into the next decade as larger scale farming has yet to establish a critical mass.

This reflects the challenges of securing adequate high-quality feed and livestock genetics combined with the inability to cull inefficient cows for religious regions means that the dominance of small producers will continue in the medium term. Privately owned processors and the more progressive cooperatives, though, are seeking to change this dynamic by providing support to farmers to increase their herd size and assistance on feed, genetics and animal care practices.

The National Dairy Development Board commenced implementing a 'National Dairy Plan' in 2012 involving significant financial investment on the part of the Government of India. The aim is to increase milk production by a compound four per cent per annum to supply, from domestic sources as much as possible, the forecast demand of 200 million tonnes in fiscal year 2021-22 (ends 31st March).

Features of the Plan that seek to provide India's seventy million small-holder rural farmers with greater access to the organized milk processing sector and thereby strengthen regulatory and policy measures, through:

- Increasing productivity via scientific breeding and nutrition programs to improve cow yields. The goal is to raise artificial insemination percentage from 20 per cent at the time of implementation of the Plan to 35 per cent over the initial six year period – to 2017-18
- Strengthening village based milk procurement systems by setting up a new generation of cooperatives, in an estimated 23,800 villages covering about 1.2 million small-scale farmers and
- Capacity building, training and education programs to promote modern, proven technologies in milk production to improve milk quality and make better use of existing resources

Demand:

Economic growth and an increasing population are key factors driving an increase dairy demand at a greater pace that India's dairy producers are unable to match with increased production. According to Indian Dairy Association (IDA) demand is currently growing at six per cent per annum compared to production growth of four to five per cent².

India's emerging middle class is pushing up domestic prices for dairy, and the fact that more and more Indians are travelling abroad for business, to study and for holiday's results in increasing demand for access to western style dairy foods when they return home. This represents a growth in demand for imported dairy products over and above the strong and growing demand for domestic origin.

Other influential factors in the growth are:

¹ Milk from buffaloes and cows are the major contributors.

² Indian Dairyman: 'From the President's desk' (NR Bashin); page 16, April 2015 edition.

- Expansion of the organised retail sector that is chains which act as a platform for growing value added sales through development of marketing and logistics including a relatively reliable cold chain, product innovation and a quicker pace of product launches;
- Ambitious growth plans of organised food service outlets and café chains such as Domino's, Pizza Hut, McDonald's, KFC and Café Coffee Day bode well for categories such as sliced cheese, mozzarella, ice cream and paneer (a fresh cheese widely used in South Asian cuisine);
- The food service sector will also indirectly drive household consumption, having a cascading effect on direct household consumption with consumers demanding retail branded products
- Consumer preferences for milk as a source of protein; and
- A large and relatively young population, growing female participation in the workforce and growing concern for quality and safety of food are driving the growth of value added convenience categories such as paneer, curd, UHT milk and infant and GUMP (growing up milk powders) formulas.

The Indian Government's approval earlier this decade to allow 51 per cent foreign direct investment in multi brand retailing (MBR), with the condition of upgrading the supply chain, is potentially a powerful stimulus for creating a more efficient cold chain that dairy relies upon for growing sales of value added products, for example cheese, UHT milk, yogurt, paneer, ice cream and baby food categories and for introducing more quickly a wider range of dairy products and foods containing dairy ingredients. This development is potentially a game-changer for the Indian retail and food-service sectors and a comprehensive CECA agreement would position Australia to take advantage of modernization of the cold chain.

Analysis:

To give an idea of the past and forecast growth potential of the Indian dairy industry: if six per cent per annum is sustained then demand growth, on a milk equivalent basis, by the end of initial six years of the National Dairy Plan in 2017-18 will be approximately double that of Australia's exports to all destinations in 2013-14.

The Indian dairy sector is 'margin' challenged reflecting the relatively limited penetration of value added dairy products. The ability of Australian industry to supply specialised ingredients for value added products will assist in improving margins and the ability of processors to attract the needed capital to expand capacity and diversify their product range. Commercially meaningful Australian origin access can be a beneficial agent of change (modernization) of the Indian dairy sector.

In summary there are a diverse and divergent range of views on the level of Indian milk self-sufficiency and costs of production, unsurprising given the number of stakeholders in the dairy industry. Successive Federal agricultural ministers have been or are attempting to deal with the mounting challenge to balancing the needs of a growing, more affluent urban population and the demands from a huge (seventy million) small-scale dairy farming sector.

The view on maintaining self-sufficiency seems to be based more on an emotional, nationalistic sentiment and entrenched domestic interests rather than on market realities. India is not necessarily a low cost producer of milk if labour costs, land and other input costs are factored in.

The view of the Industry is that there is scope to navigate India's sensitivities in dairy and progress Australia's dairy trade interests in the CECA negotiations.

Dairy Trade:

The Indian Government is concerned about commodity price volatility and as a result when domestic prices rise the Government bans exports and encourages imports. The reliability or otherwise of the monsoon is a key determinant of milk production and thereby domestic product availability. In years when the monsoon delivers sufficient moisture across the major dairying regions India can generate a surplus of product, especially of skim milk powder (SMP).

Between 2003 and 2009 India effectively imposed a ban on the import of dairy products from Australia. The ban was implemented on the basis that Australia could not provide assurances that products exported to India were made from milk from cows that had not had estrogen treatment for at least ninety days prior to milking. Australian dairy farmers agreed to change animal husbandry practices so that such an assurance could be made for India and the ban was lifted in mid-2009.

Subsequently Australia has supplied products such as WMP and SMP in reasonable volumes into the Indian market in 2010 and 2011. Subsequently export volumes have declined sharply as the table below highlights. The Industry seeks to move away from this opportunistic approach to trade and establish more certainty based on a comprehensive trade agreement.

CECA creates the opportunity for Australian processors to move beyond viewing India as an opportunistic market to one where valued trading relationships can be established.

Exports of Australian origin dairy products to India: 2008 to 2014															
	2008		2009		2010		2011		2012		2013		2014		
	Tonnes	A\$	Tonnes	A\$	Tonnes	A\$	Tonnes	A\$	Tonnes	A\$	Tonnes	A\$	Tonnes	A\$	
Butter			105	-											
Butter Oil Total			2,129	5,025,136											
Buttermilk powder					0	-									
Casein													0	293	
Casein													0	293	
Cheese			27	1,775	2	54	5	-	7	40	7	-	6	-	
Cream	0	6			0	345	1	3,720			1	1,946	0	1,323	
Desserts			0	-	0	-									
Ice Cream					0	10	1	3,618	0	54	4	25,002	1	6,357	
Infant Powder									0	-					
Lactose					200	182,254	0	-							
Milk	0	18	8	100	54	73,991	73	99,524	60	84,016	60	83,594	60	86,232	
Milk Protein Isolate							0	175							
Mixtures			2	-	22	1,064	3	13,257	4	40,924	8	93,160	15	202,558	
SMP Total					15,208	52,627,205	8,781	30,661,734							
Whey Powder			21	69,697	5	-	0	-			36	321,934			
WMP							3,375	13,664,853							
Yogurt					0	-							0	2,945	
Annual totals	0	24	2,291	5,096,708	15,491	52,884,924	12,239	44,446,882	71	125,033	116	525,635	83	299,707	

The table below highlights the diversity of exports to India of dairy products from all destinations and also the volatility. Exports peaked in both value and volume terms in 2011. The EU and New Zealand are prominent suppliers; the United States, the third largest dairy exporter less so. As the table below highlights volumes have fluctuated considerably; ranging from 12,185 tonnes in 2005 to 93,055 tonnes in 2011.

Australia-India CECA: Australian Dairy Industry submission

Exports of dairy products to India (tonnes) from all destinations										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Butter	11	28	36	154	245	95	62	91	60	52
Butter Blend	0	1	3	0	5	5	21	1	2	0
Butter Oil	73	9,480	12	744	25,245	15,823	2,861	3,364	132	162
Buttermilk	51	75	188	108	432	118	101	85	52	6
Buttermilk powder	0	0	0	4	3	22	1	1	23	13
Casein	186	179	129	56	83	85	132	68	85	593
Cheese	432	558	660	814	876	1,436	977	1,264	1,133	904
Condensed milk	91	55	127	11	8	100	172	27	3	2
Cream	7	73	0	0	0	0	4	5	4	14
Ice cream	23	37	71	118	118	259	227	145	578	629
Infant powder	258	533	117	650	621	719	317	252	498	855
Lactose	7,840	14,354	9,636	12,485	22,742	20,418	24,185	17,807	18,285	19,808
Milk	198	291	189	137	133	281	239	163	276	83
Milk products	3	44	50	0	531	567	493	510	321	197
Protein	699	3,270	1,517	3,389	958	2,102	1,098	2,868	2,332	4,372
SMP	33	739	817	250	3,166	20,261	44,904	1,481	195	138
Whey	1	120	9	2	3	2	2	0	42	362
Whey powder	1,148	2,526	2,699	1,496	3,029	5,529	11,234	4,972	6,714	9,104
WMP	1,109	707	885	657	1,080	10,957	6,002	963	983	860
Yogurt	21	30	90	45	20	13	21	10	12	3
Totals	12,185	33,101	17,236	21,121	59,297	78,793	93,055	34,076	31,727	38,157

India is also an exporter of dairy products; during the period 2005 to 2014 the number of destinations (including territories such as Hong Kong), albeit at most times comprising very small volumes, totaled one hundred and sixty nine. Total export volumes ranged between 44,100 tonnes in 2011 to 193,477 tonnes in 2013. The largest volume export was SMP as the table below attests too, though the range of products is considerable.

India: exports of dairy products (tonnes) to all destinations										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Butter	3,123	1,089	2,783	9,439	1,567	3,842	3,259	859	3,285	2,681
Butter blend	1	12	1	2	19	1	0	133	1	0
Butteroil	3,060	4,318	3,620	9,438	4,173	5,715	6,448	5,906	5,284	6,015
Buttermilk	138	594	3,199	326	101	237	322	205	463	194
Casein	11,496	7,395	15,494	11,043	6,947	10,585	3,399	9,090	11,822	10,553
Cheese	953	807	1,458	2,962	2,375	2,749	2,189	3,370	3,133	4,695
Condensed milk	414	285	148	667	233	241	127	97	249	1,207
Ice cream	136	179	198	137	402	282	319	387	475	630
Infant formula	4,408	3,755	3,855	5,273	6,005	4,395	3,751	3,364	6,324	7,127
Lactose	3,588	526	2,525	2,896	2,029	1,622	2,156	1,893	824	1,353
Milk	1,981	4,032	6,949	7,971	6,191	3,536	9,010	10,026	4,858	18,042
Milk products	151	145	1,561	107	51	10	43	70	44	11
Protein	2,336	4,270	4,182	10,219	8,050	9,446	8,902	13,900	18,989	22,129
SMP	52,058	32,053	31,519	42,960	14,994	17,993	2,884	37,731	132,361	61,006
Whey	121	1	404	62	36	79	13	212	0	0
Whey powder	2,095	1,377	4,670	2,528	775	1,273	175	68	217	37
WMP	10,337	8,987	1,108	9,792	1,192	2,180	1,103	28	5,120	3,602
Yogurt	1	1	0	13	1	2	1	8	28	2
Totals	96,396	69,827	83,675	115,835	55,140	64,188	44,100	87,346	193,477	139,285

India also exports very small volumes of dairy products to Australia, though indicating the potential for growth in two-way trade that a comprehensive and commercially meaningful, from entry into force, CECA could deliver. Refer to table immediately below.

India: exports of dairy products (tonnes) to Australia										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Butter	7.0	12.0	2.4	0.4	0.3	0.2	0	0	0.7	0
Butter Blend	0	8.0	0	0	0	0.4	0	0	0	0
Butter Oil	113.1	167.1	203.9	312.2	289.3	390.3	414.7	661.2	437.0	433.4
Buttermilk	0.0	49.7	33.0	31.9	8.7	11.3	0	0	0	0
Casein	0	0	0	0	25.4	0	0	0	0	0
Cheese	21.6	24.9	40.7	68.1	139.9	194.7	133.8	141.7	91.6	0
Condensed Milk	0	0	0	0.5	0.2	0.1	21.6	0	0.1	0
Ice Cream	0	0	0	0	0.2	0	0.4	23.2	0.1	2.6
Infant Powder	30.2	22.6	45.8	12.2	36.8	57.2	138.0	86.0	69.0	118.1
Lactose	1.0	1.4	11.6	11.5	18.1	13.4	11.1	3.1	0.6	0.5
Milk	0	14.1	11.3	53.5	72.4	92.9	16.1	0	0	0
Milk Products	0	0	0	0	0	0	0	0.5	1.5	0
Protein	27.6	60.5	167.6	213.6	32.5	11.3	65.6	184.0	305.2	438.2
SMP	50.0	0.0	0.7	0	0.8	0.2	0.6	0.3	0.8	64.6
Whey	0	0	0.4	0	0	0	0	0	0	0
Whey Powder	0	0	2.5	0.8	0	0	3.5	3.9	3.4	0.2
WMP	0	0	2.8	0.9	0.1	0.8	12.3	6.9	7.5	0.1
Yogurt	0	0	0	0	0	0	0	8	0	0

Australian dairy positioning:

Australia is a 'partner in growth' with India rather than a competitive threat. Utilising the dairy industry resources available to both nations can assist in both modernizing the Indian dairy sector (more productive and profitable) and boost two-way trade.

Australian milk production in 2014 was approximately seven per cent of India's (including non-cow's milk) and exports, on a milk equivalent export basis, were an estimated 2.7 per cent

The Australian industry is adaptive and innovative with a long history of building value adding supply chains especially in the major regional destinations of South East Asia, East Asia and the Middle East. Australia is a reliable supplier of targeted dairy ingredients that Indian processors can value add to, in partnership to build demand for dairy products.

As India's food production and processing sector capacity continues to expand CECA offers the opportunity for the Indian food processing and retail industries to partner with the Australian based processors to build demand for dairy products in the domestic market and potentially for export to other countries. Specialised Australian inputs (facilitated under CECA) could become an increasingly important part of the Indian value adding dairy supply chain.

As Indian domestic dairy consumption continues to grow India is likely to become a more regular importer of high value dairy products. Australian dairy exports will not compete with domestic production, and are more likely to target distinct niche markets in urban population centres.

There is a complementarity of dairy production between the two countries, including the ability of Australia to help meet domestic shortfalls in Indian production, but there are also limits to which Australia's dairy exports to India could increase.

Although Australia is a large country, there is limited arable land and limited water supply. Milk is only produced in a small portion of the country where the water supply is more reliable.

Australian milk production has recovered slightly in recent seasons to an estimated 9.5 billion litres in 2014-15; fifteen per cent below the peak in 2001-02. After many years of dry conditions, especially in the preceding decade Australian dairy farmers have modified their dairy farms for long term sustainability rather than rapid growth.

There has been a gradual shift in the past ten years away from mostly grass fed production to an increased reliance on off farm inputs; especially feed and water. This has increased the cost of producing milk in Australia. We now have a more sustainable, higher cost industry than we had 10 years ago.

Australian dairy farmers do not receive any direct Government subsidies or price support. Nor are they protected from imports. About a quarter of the Australian cheese market is supplied by imports. The price farmers receive is directly linked to the price obtainable on the international market. It is important, therefore, that we receive the highest possible returns from our exports.

Australia's biggest and most valuable market is the Australian market. We export less than half of our annual production. That means we have only about 4 billion litres of milk available for export products – approximately 2.7 per cent of India's total production.

Australia does not export to dispose of surpluses. Australia exports to find the highest possible returns for our milk

- Currently Australia exports to over one hundred countries around the world;
- We have enough markets to easily sell all of our product; and
- We need to find long term sustainable markets which can pay the highest prices.

As with most dairy producing countries, our most valuable market is the domestic drinking milk market. Our main focus overseas is to find markets for higher value ingredients and high value consumer products such as cheeses and infant formula.

Australia has a broad diversity of processing companies ranging from very small to medium-sized on a global scale and this is reflected in the diversity of the range of products produced.

Industry access priorities:

For dairy products the average applied tariff is 33.7 per cent whilst the average WTO bound rate is 65 per cent. India's approach in FTA's to date is to use original WTO commitments to protect its domestic market place; in effect retaining the ability to raise tariffs on dairy products to the respective bound rates.

Australian dairy industry seeks the following:

- Commercially tangible liberalisation of the trade in dairy products (sub-chapters 0401 to 0406, 1701 and 3501 and 3502 of the HTS) and dairy ingredients included in infant formula, food preparations et al (chapters 18, 19 and 21);
- A phase out period for tariffs in a commercially feasible time frame;
- Substantive annual compound increases in any quotas until phase out of tariffs;
- Addressing NTB's from a sound science perspective;
- Transparency that embraces predictability in quota administration during the transition period to free trade; and
- No carve outs (although a two speed liberalisation process could be envisaged):
 - Access for sensitive dairy products and ingredients such as liquid milk, ghee (clarified butter) and SMP and ingredients for example high sugar content (Indian sweets) could be facilitated by a phase out of tariffs over a longer time period, ensuring that

tariffs are not able to extend above current applied rates, or provided with preferential treatment during periods when central Indian Government authorities extend quota access for these products to the international market;

- Where market access concessions such as these are provided, the Australian dairy industry would expect that MFN clauses are tied to these product outcomes, ensuring that no subsequent bilateral deal is able to get a more advantageous outcome; and
- Less sensitive dairy products and ingredients should have a more ambitious liberalisation time-frame with commercially tangible gains from entry into force of an agreement.

Certainty of access is a pre-requisite for Australian dairy companies to work with their Indian counterparts to grow dairy demand in India and regionally in South Asia. Specialised dairy ingredients from Australia can assist the Indian dairy sector in developing food preparations for export to surrounding nations.

Even staple products such as milk and ghee, which the Indian negotiators are very likely to claim as sensitive, should be included in liberalisation. Imports of these products will be targeting the premium end of the retail and foods service sector markets building upon Australia's clean and green image, product quality, naturalness and unique taste and texture arising from primarily pasture fed cows. This contrasts with the large mass market supplied by indigenous production.

If duty and quota free access is not immediately available, then the Industry would expect to see CECA deliver commercially meaningful access for dairy products and dairy ingredients for manufacture of infant formula, food preparations and related products from Entry into Force.

Dairy Australia has sought advice from Australian dairy manufacturers and exporters regarding the priorities for market access into India. The following list indicates priority products.

Infant Formula and nutritional products:

Health and nutrition are very important concerns for a growing and increasingly affluent population. The average number of births in India per annum is around twenty-five million compared to sixteen million in China. Infant formula both in packaged form and also as bulk powders are value added products and while current trade might be minimal they will be an important and growing category as the Indian market develops. Also of importance are other nutritional products such as follow on formulas (for young children), growing up milk powders or GUMPs and adult products that assist, for example, in preventing or delaying the onset of osteoporosis. The current applied tariff is 30 per cent.

Milk Powders - Whole (WMP), Skim (SMP) and Butter (BMP):

Milk powders (both WMP and SMP) have been the key products in terms of significant value and volumes exported to India since the ban on Australian dairy products was 'lifted' in 2009. Import volumes are controlled by the Indian Government and vary according to domestic demand and supply. Current applied tariffs range between 30 per cent for WMP and 60 per cent for SMP noting that access for the latter is likely to be sensitive. If liberalisation of SMP is not an option, then an alternative position could be to seek tariff preference for Australian origin product under Indian Government managed import scenarios i.e. in those years where a domestic production deficit results in Government managed imports, Australian origin product is preferred.

While India is a major producer and ad-hoc exporter of SMP there is an under-developed market for WMP. Access for WMP also provides an opportunity, in view of its composition, of moving fat into India; similarly for BMP.

Cheese (including cream cheese):

The category includes processed and natural cheese for retail, food service and for manufacturing applications and cream cheese. Again current trade is minimal, though trade could be developed with a phasing out of the 30 per cent applied tariff. India has a long tradition of the use of cottage style cheese such as paneer in food preparations Australian product would not compete with local production as a result of different varieties (processed and natural compared to paneer), price points (mass versus premium markets) and end-uses (home cooking compared to food service).

Market analysis indicates growing demand for cream cheese, the “fast” segment of food service is expanding demand for mozzarella and there is anecdotal evidence that upper middle class and wealthy Indian consumers are willing to pay substantial premiums for imported food products, including dairy, when compared to domestic origin.

Milk Protein Concentrate (MPC):

MPC is a nutritious, high protein ingredient with a wide range of food applications including in cheese extension (to raise the protein content in the cheese vat to create higher yield) to nutraceutical foods, sport and nutritional beverages, desserts, dietary products, bakery products, powdered formulations and bars and in human nutrition products such as infant formula. MPC less than either eighty five per cent protein content has normally been classified under sub-chapter 0404 while the higher concentration is classified in chapter 35. Chapter 0404 attracts an applied tariff of 30 per cent.

Whey and Whey Products:

Whey and whey products fall under two HTS classifications; sub-chapter 0404 for lower value products such as non-hygroscopic whey and whey protein containing, by weight, less than eighty per cent while sub-chapter 3502 covers whey products greater than eighty per cent. Both sub-chapters currently attract tariff levels of twenty per cent. Whey is increasingly recognised as a highly nutritious source of proteins with applications in health and sports performance products.

Fractionation (a separation process) of the protein is continuing to unearth a growing array of health benefits and Australian processors have the technical capability to supply specialised whey ingredients, tailored for specific end-uses.

UHT Milk, Yogurt and dairy desserts:

Long-life milk offers opportunity if the current applied tariff of 30 per cent is phased out. While labour and freight costs would militate against direct competition with Indian origin there is the prospect of creating a premium product that could retail at a substantial premium to domestic origin milk in view of consumer recognition of high quality and the favourable image of being imported. Yogurt and dairy desserts have similar scenarios.

Butterfat:

Includes ghee (clarified butter), butter, butter oil and anhydrous milk fat (AMF). India is a net butter oil importer, often duty free when domestic production is low. The current tariffs for butter oil and ghee are 30 per cent and ‘other’ 40 per cent. India is a huge market for butterfat and the volumes available to be supplied from Australia are small compared to their domestic supply. Butter from grass fed cows in Australia with its different texture, taste, colour and origin (made only from cows’ milk) has the potential to create a niche market that is not in direct competition with Indian origin.

Food preparations and mixtures:

Specialised formulations that would benefit from trade liberalisation include ice cream mixes/ powders and bakery/ biscuit/ confectionery mixes that could be used in ice cream manufacture and the ubiquitous Indian sweets respectively.

Measures supporting commercially meaningful market access from EIF:

Safeguards:

The Industry is opposed to either volume or value safeguards in CECA that are designed to place controls, for example higher tariffs, on any perceived surge in dairy product (or agricultural per se) imports. The risk of imposition and the associated higher tariffs resulting from triggering of safeguards can exacerbate the cost and risk associated with doing business. The impact can also be apparent in the medium-term as the possibility of imposition of safeguards can discourage the development of marketing plans by dairy processors and ingredient end-users.

Commercially meaningful TRQ's, with zero in quota tariff in the transition period to the elimination of tariffs, provide both a confidence level for domestic dairy interests and a certainty on import volumes for exporters and importers.

Regulatory Cooperation and Coherence³:

Dairy food safety and animal health and welfare are major issues for consumers, regulators and the dairy sector in India and therefore contain the potential to spill over into the trade space with the imposition of non-tariff trade barriers; if not addressed in a transparent and from a sound science based approach. Measures to promote regulatory cooperation (and coherence), including cooperation between 'standards' agencies in Australia and India to address behind the border measures in a consistent and sound science based manner.

Regulatory cooperation principles are suggested as:

- Meeting health and food safety standards that are based on sound science noting that milk production systems differ between nations;
- Non-discrimination between domestic and imported goods in accordance with GATT Article II (national treatment);
- Transparency of processes in developing regulations and in implementing regulations;
- Achievement of the most efficient trade enhancing and least trade restricting outcome via TPP wide adoption of guidelines (see below) to regulation;
- Focused on outcomes;
- Real time consultation with dairy stakeholders in developing solutions to existing regulatory practices and an early warning system for development of regulations; and
- Consistency in approach to developing regulations.

To achieve the principles the following guidelines are recommended:

- Consistent application of internationally agreed standards, where they exist;
- Consistent application of Codex standards along the dairy supply chain, where they exist;
- Accountability to Codex or other relevant international standards;

³ Regulatory coherence is defined as sound, science based regulatory practices, transparency and stakeholder participation in the domestic decision making process. Regulatory cooperation is the process of interaction arising from trading agreements, founded on the benefits that respective country regulators can achieve through transparent dialogue, for example early warning of proposed regulatory changes and a more coordinated approach to regulation on matters such as food safety.

- Timely implementation, that is avoiding unnecessary delays that can impede dairy trade and be administratively burdensome; and
- Explicit statement of the principle that regulatory coherence is intended to reduce complexity of regulations relating to trade and to increase the transparency of NTB's to trade.

An option is the inclusion of a dispute resolution process within the regulatory coherence chapter as a quicker and more efficient version of the usual dispute settlement process. The Industry believes, though, that the most effective approach is to reach agreement including on timely implementation of regulatory coherence issues without any formal dispute settlement process.

MFN clause:

The Industry seeks inclusion of clause that would deliver equivalent access to Australian origin dairy products if India, in the future, completes a more ambitious trade agreement with another trading partner. This should be a pre-requisite for any product line where market access concessions for sensitive dairy products.

Rules of Origin (ROO):

ROO's are also restrictive in India's free trade agreements including change in tariff classification (CTC) and regional value content (RVC).

The Industry favours a liberal (trade facilitating) approach to ROO's, namely:

- A de minimis of ten per cent of the value of goods within chapter four of the HTS and those food preparations containing a substantial volume and/ or value of dairy ingredients. In the absence of de minimis for dairy, tariff preferences either in transition or at zero duty would not apply as many dairy products could include non-originating chapter four ingredients (see comment below); and
- Change of Tariff Classification (CTC) to reflect the substantial transformation, conferring origin that has occurred at the HTS six digit level.

The ROO's approach on de minimis reflects the commercial reality arising from the growth of regional exporting hubs. India could become the (dairy) food processing hub of South Asia if dairy trade liberalisation is commercially meaningful and that in turn facilitates access to evolving global supply chain sources.

For example Australian based processors:

- Source lactose, whey powder and whey protein concentrate (WPC) from the EU and USA;
- Use specialty ingredients such as vitamin mixes or oils sourced from outside the Pacific Rim (both are important in the manufacture of infant formula);
- Sometimes the source is specified by the customer or there may be few global suppliers;
- These ingredients can comprise up to 50 per cent of the final product on a volume basis; and
- Processors standardise production using imported permeates/additives for example lactose and as mentioned above important supply sources are the EU and USA.

Potentially all dairy products that are exported are used in subsequent manufacture and often subsequently exported from the original importing country. As a rule of thumb bulk dairy ingredients are not consumed directly and at a minimum are repacked, often with additional products and processing.

Global manufacturing is often operates on a hub basis, for example Singapore or Malaysia and then exporting too many countries.

Sanitary and PhytoSanitary (SPS):

Adherence to the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures.

Export competition:

Export subsidies and export credits are prohibited in both direct trade and through third countries, for example blending of ingredients for food preparations in Singapore.

Technical Barriers to Trade (TBTs):

Adherence to the WTO's Agreement on Technical Barriers to Trade. In addition a mechanism be set up to address agricultural technical barriers to trade in the CECA negotiations.

Tariff Rate Quota administration:

If dairy product quotas are a transitional outcome of CECA negotiations the Industry's preferred option is for administration by the Australian Government.

Customs clearance:

Improving supply chain competitiveness through adopting Custom's procedures that contribute to the quick transit of goods and thereby fostering the participation of small and medium sized enterprises in bilateral trade.

A self declaration of origin approach (DOO) is preferred over the certificate of origin approach. This allows processors and exporters to deal directly with Customs and end-users and not through a third party that comes with additional costs, enabling the DOO to accompany the commercial documents (invoices).

Investment protocols:

The Australian Dairy Industry has prospered from overseas investment for well over one hundred years. Direct foreign investment has enhanced supply chain competitiveness by delivering sophisticated (state of the art) equipment, enhanced technical skills that improve product quality and innovation and progressive management practices.

Trade and investment go hand-in-hand. Consequently investment clauses are sought in CECA to encourage a mutually beneficial two-way flow noting that the general exemptions of GATT Article XX should apply: including preventing the adoption or enforcement by any contracting party of measures necessary to protect public morals; to protect human, animal or plant life or health and relating to the conservation of exhaustible natural resources.

Other trade agreements:

The ASEAN-India free trade agreement provides a guide to India's possible, though limited, liberalisation schedule. The agreement liberalises market access for:

- Yogurt, buttermilk powder, milk protein concentrate, whey protein concentrate, casein and caseinates, noting that HTS classification of some of these products is outside of the dairy 'chapter' and does not cover, Liquid milk, milk powders (SMP and WMP), Butter, AMF (butteroil) and cheddar cheese, (all important export products for Australian processors).

The ASEAN-India FTA highlights where Indian sensitivities on dairy market access might lie, though the lack of ambition is palpable and needs to be viewed in the backdrop of Australian origin dairy being a complementary partner in the development of the Indian sector rather than a competitive threat.

Attachment 1 provides a summary of dairy tariff line coverage and ROO from India's FTAs, including ASEAN.

RCEP negotiations:

India and Australia are both participants in the RCEP (Regional Comprehensive Economic Partnership) negotiations. It is essential, given India's participation, that:

- Ambition is maintained and achieved in both the CECA and RCEP negotiations to enhance market liberalisation from the following commercial angles:
 - Tariff and quota elimination;
 - Best practice that includes administrative and regulatory transparency; and a
 - Regulatory coherence framework that resolves NTB's based on a sound science approach.

NTB's to trade:

From an Industry viewpoint it is important to ensure that the phasing out of tariffs is matched in equal ambition by trade facilitating outcomes on actual or potential NTB measures.

Australian exporters have identified a number of issues (other than high tariffs) that can make access to India for dairy products problematic. While these issues do not necessarily preclude trade in dairy products to India it is worth noting that the industry looks forward to CECA providing a mechanism for resolution of NTB's in a commercially responsive time-frame as they arise.

Some existing issues quoted include:

- Labelling requirements; retail products have to include information including MRP (Maximum Retail Price), 'month of import', import stamp and a non-standard form of nutritional panel information;
- The Government of India's non-automatic import licensing system for dairy products;
- Maximum market entry age for WMP, SMP, infant milk products and whey products;
- Intellectual property (including GIs – see below) and more generally knowledge transfer ('localisation'); this is becoming an increasingly prickly trade issue with India in solar, nuclear and telecommunications technology that could spill over into the transfer of dairy technology; and
- Product testing; product can be held at port of entry while product testing is undertaken. Often inadequate provision for storage of chilled product exists at the port (or airport);
 - Product registration, certification and compositional tests impose significant costs in India and serve no useful purpose, especially for standard dairy products for example butter, cheese, milk powders; and
 - Most markets do not have these requirements; enforcement of product standards is achieved by in-country random sampling programs.

More generically:

- Food security: arbitrary decisions by the Indian government on access reflecting the reality that dairying is a major contributor to rural economic development and household incomes and milk and milk based products are dietary staples in many parts of the country;
- Indian food safety and health regulations may lead to, for example;
 - Food laws that do not comply with internationally accepted benchmarks such as Codex and/ or are not sound science based;
 - High levels of ambiguity in interpretation of issues that arise from the range of laws, regulations and related procedures and practices that are applied on imported products in India, for example;
 - Veterinary certificate for import of milk and milk products issued by Ministry of Agriculture, Department of Animal Husbandry, Dairying and Fisheries;
- TRQ administration if undertaken by the Indian government could result in measures inimical to utilisation, for example "cost recovery", burdensome administrative requirements including lengthy delays in approvals, auctioning or lottery system employed, allocation of quotas to non-market players such as statutory authorities or the National Dairy Development Board, late notification of allocations and short application period, no system to re-allocate underutilised quota, general lack of transparency including no official web site dedicated to quota administration etc. along with protracted customs clearance procedures.

Recognition of Australia's food safety and animal health and welfare standards are recommended. In this vein facilitating, as a first step, consultation and collaboration on quarantine and bio-security

issues per se between Australian and Indian authorities is envisaged, rather than immediate resort to arbitrary, behind the border measures to trade that may not be based on sound science.

Geographic Indications (GIs):

As previously noted the Indian Government has commenced negotiations for a free trade agreement with the EU. The Australian dairy industry is concerned that this could result in India agreeing to protection of European GIs for cheese as has been witnessed in the Korea-EU FTA.

South Korea is now required to ban the sale of GI named cheeses such as Feta unless they are produced in the designated parts of Europe.

While it is not yet entirely clear how the Koreans will implement their agreement with the EU, one Australian manufacturer and supplier of Feta into the Korean market has advised that, under pressure, it has decided to rename product entering Korea. If this precedent is pursued for other GI's, use of common (or generic) cheese names such as camembert, brie, gouda, edam and mozzarella by Australian origin could also be at risk.

The Industry urges the Australian Government to use the CECA negotiations to bring to the Indian Government's attention the potential NTB threat to local cheese producers, local retailers, local consumers as well as third country suppliers. The Industry also requests that the Australia India FTA include provisions would ensure Australian suppliers have ongoing access to common cheese names.

Australia-India CECA: Australian Dairy Industry submission

Attachment I: summary of the dairy ambition in India's trade agreements

The red boxes indicate no dairy product liberalization; the green boxes a degree though this is not to be confused with free trade.

India FTAs													
Product	MFN Rate	South Asian Free Trade Area (SAFTA)	Other FTAs										
			Sri Lanka	Bhutan	Nepal	Afghanistan	ASEAN	Malaysia	Singapore	Korea	Japan	MERCOSUR	Chile
Liquid milk and cream	30%												
SMP	60%												
WMP	60%												
Sweetened WMP	30%												
Evaporated milk	30%												
Condensed milk	30%												
Yoghurt	30%												
BMP	30%												
Whey powder	30%												
MPC / Protein Blends / WPC <80% protein	30%												
Butter	30%												
Dairy Spreads	40%												
AMF	30%												
Cheese	30%												
Lactose	25%												
Cocoa Dairy Blends (packaging >2kg)	30%												
Cocoa Dairy Blends	30%												
Malted milk, infant formula in retail packaging	30%												
Infant formula and milkpowder blends in bulk	30%												
Icecream	30%												
Other food prep	30%												
UHT milk beverages	30%												
Potable ethanol	150%												
Industrial (denatured) ethanol	7.5%												
Casein	20%												
Caseinates	20%												
Milk albumin	20%												
Peptones, lactoferrin	20%												

India FTAs														
Product	HS code	MFN Rate	South Asian Free Trade Area (SAFTA)	Sri Lanka	Bhutan	Nepal	Afghanistan	ASEAN	Malaysia	Singapore	Korea	Japan	MERCOSUR	Chile
Liquid milk and cream	0402.10	20%		Free	Free	Free								
SMP	0402.10	60%		Free	Free	Free								
WMP	0402.21	60%		Free	Free	Free								
Sweetened WMP	0402.26	30%		Free	Free	Free								
Evaporated milk	0402.91	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Condensed milk	0402.90	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Yoghurt	0403.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
BMP	0403.90	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Whey powder	0405.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
MPC / Protein Blends / WPC <80% protein	0406.90	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Butter	0406.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Dairy Spreads	0406.20	40%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
AMF	0406.90.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Cheese	0406.90	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Lactose	1702.11	25%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Cocoa Dairy Blends (packaging >2kg)	1802.30	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Cocoa Dairy Blends	1802.90	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Malted milk, infant formula in retail packaging	0404.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Infant formula and milkpowder blends in bulk	0405.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Icecream	2105.00	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Other food prep	2105.90	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
UHT milk beverages	2202.90.10	30%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Potable ethanol	2207.10	150%		Free	Free	Free								
Industrial (denatured) ethanol	2207.20	7.5%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Casein	3502.10	20%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Caseinates	3502.20	20%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Milk albumin	3502.30	20%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Peptones, lactoferrin	3504.10	20%	Reduced from 20% to within 0-5% from 2008 to 2012	Free	Free	Free								
Rules of Origin			Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 40%	Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 30%	Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 30%	Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 30%	Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 30%	Change of Tariff Subheading (CTSH) at the six-digit level and regional value content (RVC) of 30%	Change of Tariff Subheading (CTSH) at the six-digit level and regional value content (RVC) of 30%	Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 40%	Change of Tariff Subheading (CTSH) at the six-digit level and regional value content (RVC) of 35%	Change of Tariff Subheading (CTSH) at the six-digit level and regional value content (RVC) of 30%	Regional value content (RVC) of 60%	Change of Tariff Heading (CTH) at the four-digit level and regional value content (RVC) of 40%
Date agreement came into force			2006	December 2001	July 2006	1991	2003	2010	July 2011	2005	2010	August 2011	2009	2007
Parties to agreement (other than India)			Afghanistan, Pakistan, Sri Lanka, Bangladesh, Bhutan, Nepal, Maldives	Sri Lanka	Bhutan	Nepal	Afghanistan	Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam	Malaysia	Singapore	Korea	Japan	Brazil, Argentina, Singapore, Paraguay, Venezuela	Chile