



Nestlé

Nestlé Submission

Tariff Reform: Removal of Nuisance Tariffs

March 2024

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Introduction

This submission is made on behalf of Nestlé Australia Ltd. Nestlé is a manufacturer and importer of a wide variety of foods for the Australian market and is globally one of the largest food manufacturers.

Nestlé welcomes the opportunity to provide comments in response to the consultation on *Tariff Reform: Removal of Nuisance Tariffs*.

We thank the Australian Treasury for consideration of the matters raised in this submission.

Comments

Nestlé welcomes the Australian government's largest unilateral tariff reform in two decades and supports the placement of around 500 tariff lines, including those relating to food, as duty free.

The paper highlights several reasons for tariff 'free' rates of duty, noting "household necessities" such as toothbrushes, tools, fridges, dishwashers and clothing.

Food, including Special Purpose Food products used in the dietary management of specific nutritional needs, is also a necessity, and its impact on the cost of living for these families may be experienced more frequently during their regular shop.

For this reason, we urge the Treasury to also consider a tariff 'free' rate of duty on additional categories of Special Purpose Foods:

1. Food for Special Medical Purposes,
2. Modified protein infant formula products,
3. Formulated Meal Replacements, and
4. Infant Foods

Removal of tariffs on these categories would ensure consistency of classification of food products and help provide cost savings to vulnerable consumers at home.

These requests relate to 'Special purpose foods', which are outlined by the Ministerial Forum in the "Policy Guideline on the intent of Part 2.9 - Special Purpose Foods" – as captured by "*food standards that prescribe specific requirements for foods processed or manufactured for use by physiologically vulnerable individuals and population sub-groups.*" These special foods are intended for people whose nutritional requirements cannot be met by normal foods.

The request is to extend tariff removal to these other special purpose foods, and the rationale for the request is discussed in more detail in the following sections.

In addition, we also welcome the proposed removal of tariffs by Treasury for tariff code 2106.90.15, relating to Formulated Supplementary Foods, which are a group of products standardised within the Australia New Zealand Food Standards Code (**Food Standards Code**) – Standard 2.9.3. This is one of two codes for formulated supplementary foods introduced via the Customs Tariff Amendment (Incorporation of Proposals and Other Measures) Bill 2021. We note however that 2106.90.95, which has an identical description to 2106.90.15, is missing from this nuisance tariff reform. We suggest also including it in this reform for consistency.

1. Food for Special Medical Purposes (FSMP)

FSMPs are specially formulated food products for the dietary management of individuals (including children) with health conditions, ongoing chronic medical or disability conditions or during acute phases of illness, injury or disease states, such as malnutrition. Many Australians rely on these products, some of which are used as a sole source of nutrition. These products include enteral or tube feeds and oral nutritional supplements for use under medical supervision. They are sold in pharmacies to consumers and through healthcare distributors for “home” patients who have been discharged from hospital. They are also supplied through certain institutions such as hospitals, aged care and nursing homes.

Many of these products are ‘lifesaving’ basic needs for vulnerable consumers – in many instances, their use of FSMPs is not a choice, but a necessity. Removing tariffs on FSMP goods may help ease the cost of living impacts for people who purchase and rely on these products.

Since the Foods Standard Code Standard 2.9.5 (Food for Special Medical Purposes) for these products came into effect in 2012, there has not been a review of tariffs in relation to this category. In fact, a tariff code for this category of products does not exist. These FSMP goods, which provide the special dietary requirements for people with health or medical conditions, are generally classified under Tariff Code 2106.90 as “food preparations not elsewhere specified or included” which currently attracts a tariff charge.

Removing tariffs would have negligible impact on local manufacturing. Food Standards Australia New Zealand (FSANZ), in constructing the FSMP food standard, noted that there is minimal local manufacture of FSMP and estimated that 99% of products on the market are imported.

Current tariffs may restrict access to FSMPs for Australian consumers, as some FSMPs may not be commercially feasible to sell in Australia once duties are added to the overall cost. This can also be a barrier to innovation and broader accessibility to such products.

We are of the view that in principle, people requiring the assistance of these special foods should be treated equitably. If “Formulated Supplementary Foods” (classed as Special Purpose Foods in the Food Standards Code) are intended to be duty free, then we consider that “Foods for Special Medical Purposes” should also qualify for the removal of tariffs.

2. Modified protein infant formula products

When a baby is unable to receive breast milk, the only suitable and safe alternative is a scientifically developed infant formula product. There are no other safe and suitable alternatives; these products are considered a fundamental necessity for formula-fed babies until 12 months of age.

Some of the infant formula products imported by Nestlé incur a tariff charge, such as modified protein infant formula, while others do not. Noting that all infant formula products in Australia are regulated under a single Food Standards Code, 2.9.1, Nestlé suggests that modified protein infant formula products should not be taxed differently to other infant formula products.

We propose that consideration is given to removing tariffs for all infant formula products, to provide equitable access to infant formula products for parents and caregivers of all formula-fed infants. Additionally, the removal of tariffs could also contribute to easing cost impacts for parents.

Infant formula products are considered prepared foodstuffs from a customs tariff perspective. Tariff Code 1901.10 covers “Preparations suitable for infants or young children, put up for retail sale”. This Tariff Code is already duty free. However, it covers infant formula product preparations that contain only certain dairy ingredients such as natural milk or milk constituents such as milk powders or whey powders. In contrast, modified protein infant formula products, are currently deemed not to fit the criteria under the duty-free tariff code 1901.10. This class of infant formula products are then identified as “Other Food Preparations”, under tariff code 2106.90, and these types of infant formula products then incur a tariff fee.

As with Foods for Special Medical Purposes, the current structure of tariff code 2106.90 does not make provision to recognise the full scope of these products. We ask that Treasury review this anomaly in the tariff of infant formulas and ensure consistency across the category for all infants and parents.

3. Formulated Meal Replacements

Formulated meal replacements, standardised in the Food Standards Code as a Special Purpose Food within Standard 2.9.3, are traditionally an easy-to-consume food, such as a drink (powdered or ready-to-drink), or a bar. They are food products that are specially formulated as a replacement for one or more meals of the day, but not as a total diet replacement.

Due to the high protein content and essential nutrient composition of formulated meal replacements, they are used frequently to provide vital nutrition to individuals requiring nutritional support for varying health conditions. Consumers of formulated meal replacements typically have a compromised health status and require these products to assist with obtaining or maintaining an optimal nutritional status to achieve health outcomes.

We are of the view that in principle, people requiring the assistance of these special foods should be treated equitably, and if “Formulated Supplementary Foods” (classed as Special Purpose Foods in the Food Standards Code) are intended to be duty free, then we consider that “Formulated meal replacements” should also qualify for the removal of tariffs.

5. Infant foods

Food for infants are standardised in the Food Standards Code as a Special Purpose Food within Standard 2.9.2. Infant foods are specifically formulated to meet the nutritional needs of infants which are a vulnerable population group, and support their growth and development.

They play a valuable role in providing a convenient and nutritionally balanced meal to support an infant’s growth and development as solid foods are introduced.

Some infant foods incur a tariff charges, others do not, depending on the compositional basis of the infant food. We propose that consideration is given to removing tariffs for all infant foods to be consistent.

We are of the view that in principle, people requiring the assistance of these special foods should be treated equitably, and if “Formulated Supplementary Foods” (classed as Special purpose foods in the Food Standards Code) are intended to be duty free, then we consider that “Infant foods” should also qualify for the removal of tariffs.

Concluding comments

Australia's current Free Trade and Preference Scheme Agreements play a material role in reducing the cost of a vast range of imported goods, including foods.

However, most European Union member countries are currently not covered under any of these Agreements. Many of our specialised products identified above are from the EU and therefore currently subject to import duty.

We hope this reform will achieve a duty saving and provide an equitable outcome for special purpose foods, which are necessities for physiologically vulnerable individuals and population sub-groups.