

11 February 2007



Mr Peter Baxter  
First Assistant Secretary  
North Asia Division  
Japan FTA Task Force  
Department of Foreign Affairs and Trade  
John McEwan Crescent  
Barton ACT 0221

By email: [japanfta@dfat.gov.au](mailto:japanfta@dfat.gov.au)

Dear Mr Baxter

## **Australia-Japan free trade agreement**

### **Introduction**

The Confectionery Manufacturers of Australasia Ltd (CMA) is responding to a request from Mr Peter Baxter, First Assistant Secretary, North East Branch (dated 20 December 2006) to make a submission to the Japan Free Trade Agreement Task Force.

The Confectionery Manufacturers of Australasia (CMA) is the peak body for the confectionery industry in Australia and New Zealand and represents over 210 members from all parts of the confectionery supply chain. The membership comprises manufacturers, suppliers and distributors. Approximately 70% of Australia's exports originate from Victoria and of these 14% is exported to Japan, as significant quantity.

### **Issues**

Following input from our manufacturing members, the CMA notes the following issues associated with Australian confectionery firms doing business in Japan, many of which were advised during the feasibility phase. In particular:

- the high rate of duty applied to white chocolate products (25%) compared to milk chocolate (10%);
- the barrier to trade associated with ingredients, in particular additives which are not permitted in confectionery in Japan;
- the non-acceptance by Japan of approved colours that are used in Australia in confectionery;
- inconsistencies between maximum residue limits in confectionery/chocolate products; and
- other *invisible* barriers associated with language translations and interpretations.

Some of the regulatory barriers to trade that impact on the confectionery industry are associated with variations in approved additives that differ between Australia and Japan. For example:

- preservatives – potassium sorbate (International Number: 202);
- gelling agents – pectin (International Number : 440a) and gum acacia (International Number: 414); and
- coating/pre-polishing agent – talc (International Number: 553b).

These additives are permitted for use in confectionery in Australia, however are not permitted for use in confectionery in Japan, thereby preventing Australian exports to Japan. For example confectionery fudge that uses potassium sorbate and myrtle flavoured chocolate coated macadamia nuts that contain pectin, gum acacia and talc.

Similarly, there are restrictions on the use of approved colours that are permitted in Australia, for example, Carmoisine (International Number : 122) is used for RA3024, Ravicol Rose Pink in Australia, but is not permitted in Japan.

In 2006, the CMA became aware of new maximum residue limits (MRLs) for chemical and agricultural products in Japan. The international confectionery community, of which the CMA is a part, has expressed concern that these MRLs apply to the cocoa bean, whereas in most other countries, with the exception of Australia, the MRLs apply to the de-shelled cocoa bean. Furthermore the MRLs appear to be more restrictive than many of its international trading partners, including Australia, therefore creating anomalies and barriers to trade. As suggested the approach in Japan seems to be more stringent than that in Australia and thus has the potential, also, to present trading difficulties. A situation occurred recently when a consignment of chocolate coated macadamia nuts were exported to Japan. In Japan enforcement authorities identified a non-conformance for di-chlorvus – a pesticide. In Australia di-chlorvus is limited to 5mg/kg, whereas in Japan it is 0.5mg/kg

Some CMA members have also had difficulties in obtaining critical information in English language translation, including the Japanese food regulation, import provisions and sanitisation requirements. This has consequences for the product contents and compliance of import documentation. It would appear also that the protocols at the different ports of entry differ. This includes inconsistent interpretation and application of the regulations, by offices administering the requirements, and inspection provisions which ultimately leaves the Japanese customer frustrated as they are unable to receive goods in a timely manner.

## **Requests**

Ideally, consideration of internationally aligned regulatory requirements should be the desired outcome.

If the market accessibility was not cost prohibitive and/or was deregulated more Australian product may find successful export markets in Japan.

Again, the CMA is grateful to DFAT for the opportunity to contribute to the development of an Australia-Japan FTA and should further information be required,

please do not hesitate to contact me. We would be also grateful if DFAT would keep the CMA informed of developments.

Yours sincerely

A handwritten signature in blue ink that reads "Jennifer Thompson." The signature is written in a cursive, flowing style.

**Jennifer Thompson**  
**Operations Director**