March 2023

Import risk review for dairy products for human consumption: draft report

Webinar: Questions and answers

The Department of Agriculture, Fisheries and Forestry hosted a webinar about the draft report for the *Import risk review for dairy products for human consumption* (dairy review). There were over 45 participants, including members of domestic and international industry organisations.

This document provides answers to questions that were not answered during the webinar. There is also a 'Frequently Asked Questions' document, with additional information available on the dairy review page of the department's website.

Contents

1. **Key proposed changes** 2
2. **Minimum requirements** 2
3. **Timing** 4
4. **Specific disease risk management** 4
5. **Transhipment** 5
6. **Alternate treatments for pasteurisation** 6
7. **Raw milk cheese** 6
8. **Import permits** 7
9. **Operational questions** 7

1. Key proposed changes

What is different to the current status quo? Can DAFF provide an overview?

The key changes proposed in the dairy review include:

- expanded risk management options for countries of origin and/or manufacture and export and/or storage which are not recognised by the department as free from foot-and-mouth disease (FMD) and/or lumpy skin disease (LSD) and/or sheep pox and goat pox (SGP)
- addition of risk management measures for peste des petits ruminants (PPR) in imported sheep and goat dairy products (except for cheese)
- butter will no longer be considered differently from other dairy products
- allowances for whey protein fractions
- addition of minimum requirements.

In most cases the proposed changes will have no effect on the availability of dairy products currently imported, and the intent is that most dairy products that can meet current import requirements will remain eligible. For example, the addition of risk management for PPR will not affect the eligibility of currently imported sheep and goat dairy products, because all countries currently affected by PPR are not on the department's FMD-Free Country List, and would not be eligible to export dairy products to Australia, unless they are retorted.

The changes mean that some dairy products currently not allowed to be imported into Australia could become eligible under the proposed changes, subject to meeting the biosecurity measures that manage the risk.

Can you expand a little on 'butter is no longer considered separately from other dairy products' what does this mean exactly? As an example, currently our permits are for ALL cheese and butter with a country not specific to manufacturer etc.

Currently imported butter only requires risk management for FMD, and there is no specific disease management for butter imported from countries affected with LSD, SGP, and PPR.

Due to changes in the risk environment since the 1999 dairy IRA was published, the dairy review proposes that butter should no longer be considered separately from other dairy products, and the risk management measures that apply to other dairy products (excluding cheese) should also apply to butter. This means that proposed risk management measures for LSD will apply for butter made from milk from cattle and water buffalo, and the proposed risk management measures for SGP and PPR will apply for butter made from milk from sheep and goats.

This change will mean that importers will need to apply for a standard dairy permit rather than a cheese and butter permit for importing butter into Australia. These changes will not occur until after the dairy review has been finalised, and stakeholders will be notified of the transition period. It is unlikely that this change will affect the eligibility of most butter products currently imported, as most are from countries not affected by diseases requiring specific risk management.

2. Minimum requirements

What is the basis for the minimum requirements (section 4.1), and what does this mean?

The dairy review has considered that foods imported for sale in Australia must comply with the Australia New Zealand Food Standards Code (the Code). Some aspects of the Code provide significant value in managing the biosecurity risk of animal diseases, such as:

- implementing documented food safety programs for dairy primary production, collection, transportation and processing
- sourcing milk only from healthy animals
- processing requirements of milk and dairy products
- notification of food business operations to authorities.

The draft report refers to these as the 'minimum requirements'.

One of the recommendations of the dairy review is that a number of animal diseases identified as hazards in imported dairy products (listed in Appendix A) are managed specifically and solely by the minimum requirements. For diseases that cannot be managed solely by the minimum requirements, additional risk management measures were developed (e.g. FMD, LSD, SGP, PPR, and scrapie).

How the minimum requirements will be operationalised will be finalised with the final report.

Can DAFF elaborate on what 'all the facilities involved in manufacture have current approval' entails in the proposed minimum import conditions?

The requirement that 'all the facilities involved in manufacture have current approval for the relevant operations from the competent authority of the country where manufacture occurred' is based on the Food Safety Standard 3.2.2 Food Safety Practices and General Requirements for notification of food businesses – that food businesses are to notify the appropriate enforcement agency before commencing any food handling operations. This will be a new biosecurity requirement, and aligns with the conditions under the Australia New Zealand Food Standards Code.

The minimum import conditions appear to have become more stringent (e.g. factory approval). Given we have not had an incursion of FMD and LSD into Australia, can DAFF elaborate as to why additional proposed requirements is justified and proportionate to the risk.

The minimum requirements are not intended to be more stringent than current conditions. The minimum requirements are aspects of the Australian and New Zealand Food Standards Code (the Code) that have been identified as providing significant value in managing animal biosecurity risk. The dairy review identified that risk management measures (referred to as the minimum requirements), are necessary to manage the risk of many different diseases that can be transmitted in dairy products (Appendix A of the review). As these measures are already requirements of the Code, most imported dairy products already meet these requirements.

How the minimum requirements will be operationalised will be finalised with the final report.

Requirement to declare origin of dairy ingredients on a Health Certificate appears to be a new requirement for the Health Cert? Usually, this information is currently provided as part of the Dairy questionnaire. Is DAFF confident that all their equivalent exporting authorities are willing to change their current health certificate content to declare this origin of dairy ingredients for Australia?

Current health certificates for dairy products exported to Australia already include the origin of the dairy ingredients, this is not a new requirement. Please see BICON for Health Certificate requirements.

3. Timing

What are the proposed timings for implementation of the Dairy Import Risk review? Are there proposed transitional timings?

There will be plenty of time before any changes to current biosecurity risk measures occur.

After the draft report consultation period closes on 31 March 2023, all feedback received will be considered and a final report will be developed. Further consultation will be sought during the finalisation of the final report, which will be published on the dairy review page on the department's website. Once the dairy review has been finalised, there will be a transition period for the implementation of the new biosecurity measures, the length for which is still to be determined.

4. Specific disease risk management

Does DAFF have a list they can share on who are the overseas competent authorities acceptable to DAFF?

The department uses disease-free country lists to assist with the management of some specific diseases for certain products.

Countries the department considers free from FMD, LSD and sheep pox and goat pox, are available on the department's website as the FMD-Free Country List, LSD-Free Country List, and the Sheep Pox and Goat Pox-Free Country List. A PPR-Free Country List will be developed for the final report and made available on the department's website. These lists are used for a wide range of commodities, including to identify what countries are eligible to export dairy products to Australia without the need for specific disease risk management.

Following application and assessment of other countries, the department will consider additional countries to be suitable for inclusion in the above lists. However, the criteria and procedures for inclusion in these lists are not within the scope of the dairy review.

When will the department update its FMD/LSD-Free Country Lists to include Zones (as referenced in the draft and consistent with WOAH)?

The department will consider animal disease-free zones; however, due to the extreme consequences associated with an FMD outbreak, conducts its own evaluation of FMD-free status of countries and zones.

Recognition of animal disease-free zones is a lengthy process requiring significant investment of resources from the competent authority of the country/zone and the department. The department has established procedures to assess the FMD status of countries and zones for trade purposes. Recognition of a country/zone's FMD status by the World Organisation for Animal Health (WOAH) is considered as part of the assessment.

Please note that the department's FMD-Free Country List is used for a wide range of purposes and is not specifically for dairy products. The criteria and procedures for inclusion in the department's FMD-Free Country List are not within the scope of the dairy review.

Can DAFF consider alternative arrangements for situations of lower risk? For example if the manufacturing facility was in a country that was FMD free controlled by vaccination, can alternative heat treatments be considered? For some products, the above is too prescriptive and may not result in a feasible commercial end product.

FMD risk management measures for imported dairy products will apply to countries that are FMD-free with vaccination. The department does not consider countries where vaccination is practiced to be free from FMD, which is the same across all commodities. It is not specific to animals that produce milk for dairy products. Vaccination may reduce clinical expression of disease (animals that are infected look healthy) and may not prevent infection occurring or animals becoming carriers.

Risk management measures proposed in the dairy review for FMD provide a baseline for adequate risk management. The department will consider whether alternative treatments are equivalent to what is recommended in the dairy review for FMD risk management.

Please note that in accordance with the proposed risk management measures for FMD, heat treatment in addition to pasteurisation is not required for dairy products manufactured in countries that are affected by FMD, if the dairy ingredients are sourced from countries that are on the department's FMD-Free Country List. Heat treatment in addition to pasteurisation is only required when dairy ingredients are sourced from countries that are not on the department's FMD-Free Country List.

Has the department considered that foreign manufacturers will be able to use dairy ingredients from countries not free from FMD, and then ship those finished goods to Australia packed for retail. Australian manufacturers won't be able to use those same ingredients.

Risk management options recommended for FMD and other diseases in the dairy review provide the baseline for decision makers about what is required to appropriately manage the risk. It is well known that bulk products imported for further processing have a greater likelihood of being diverted to stockfeed than products ready for retail sale. However, alternative risk management measures may be approved if an assessment by the department determines that they will provide an equivalent level of risk management.

Will the department consider eliminating the requirement for goods to be packed in retail packaging (or allow for alternative mitigation steps)?

Risk management options for diseases that are recommended in the dairy review provide the baseline for decision makers about what is required to appropriately manage the risk. The likelihood of susceptible animals being exposed to and consuming an infectious dose of a disease is lower in goods commercially prepared and packaged and ready for retail sale due to the relatively increased packaging and smaller volumes of individual units, and prevents waste streams associated with further manufacture onshore. However, alternative risk management measures may be approved if an assessment by the department determines that they provide an equivalent level of risk management.

5. Transhipment

Will the proposed restrictions on transhipments be revised so that they do not apply to containers that remain sealed and in port?

The proposed disease risk management measures for countries/zones of storage or transhipment en route to Australia do not apply to dairy products that are in containers that are shipped with seals intact. The intent of the risk management measures for countries/zones of storage or transhipment en route to

Australia is to facilitate goods to be unloaded during transhipment and stored without manipulation, also known as 'hubbing'.

It should be noted that an assessment will be required for eligibility for this new proposal, and the department will need to be satisfied that the competent authorities in the countries of storage/transhipment have sufficient oversight to ensure that products are not subject to manipulation. These assessments will be specific to the supply chain and require significant investment from the importer, competent authority of the countries of storage/transhipment, and the department.

6. Alternate treatments for pasteurisation

Can DAFF share the acceptable alternate heat treatments for pasteurisation of common types of dairy produce? How are alternative heat treatments assessed by DAFF? What is considered?

An assessment for an alternative treatment considers how different the proposed treatment is from the currently accepted treatment options, and the availability or depth of the scientific data available that demonstrates relevant disease agents would be inactivated in the milk or dairy products by the proposed treatment.

By providing a baseline for adequate risk management in the dairy review, the department can be as flexible as possible for proposed alternative risk management measures, whilst ensuring the animal biosecurity risks are managed appropriately.

7. Raw milk cheese

What is the exact legal basis by which the department resolve the conflict between Biosecurity legislation, which permits the importation of raw milk cheeses based on foreign government certification, and the Imported Food Control Act which requires imported raw milk cheese to comply, for example, with clause 17 of Standard 4.2.4 of the FSANZ Food Standards Code, which imposes its own processing requirements on raw milk cheese sold in or imported into Australia that are conflicting and incompatible with the certifications currently in place? Does this legal basis also apply in relation to State and Territory Food Acts which also adopt by reference the Food Standards Code?

It is important to note that animal biosecurity risks and human food safety risks are not the same. Whilst animal biosecurity risks may be managed for imported raw milk cheese from some countries, the human food safety risks may not be adequately managed, and vice versa.

Under imported food legislation, imports of raw milk cheese must be covered by a foreign government certificate.

Please note that the assessment process or criteria for setting up this arrangement is not within the scope of the dairy review. Further information about importing raw milk cheese can be found on the department's website.

8. Import permits

Can DAFF please advise if there is a biological risk of introduction or spread that is mitigated by the need for an import permit to be current at the time of import, rather than allowing for a permit to also be accepted as current up to the date the goods departed the country of export?

A valid import permit at the time of import is a requirement under Australian law. Under section 174 of the *Biosecurity Act 2015* (Act) conditionally non-prohibited goods must not be imported into Australian territory unless an import permit has been granted by the Director of Biosecurity. It is a criminal offence pursuant to section 186 of the Act to bring or import goods into Australian territory that require an import permit, without one. The Act also prohibits the department from issuing an import permit for goods that are already in Australian territory. The department does not facilitate the clearance of conditionally non-prohibited goods that arrive without the required import permit. Conditionally non-prohibited goods that arrive in Australia without a valid import permit will be directed for export from Australian territory or disposed of in an approved manner. This includes where an application is currently under assessment or with the delegate for consideration.

A valid permit on import ensures that goods that arrive in Australian territory comply with current policies and legislation at the time of import. This is particularly important when there is a change in policy or if a country reports the outbreak of a disease that affects the goods that are being imported.

Please visit the department's website for more information.

9. Operational questions

A number of questions have been received about how the proposed risk management will be operationalised. These include:

- Has DAFF identified which countries already have in place a requirement for manufacturers to have current approval for the relevant operations from their competent authority?
- For countries which may not have this approval arrangement in place, what steps will DAFF take with governments and their competent authorities to request the implementation of this approval arrangement?
- What would occur in a situation a competent authority is unable to perform the factory approval? Does DAFF then do this and is there a cost recovery charge?
- What standards will factory approval be based on?
- How will the requirement for documented food safety programs be verified for imported goods? Is there an expectation that a finished product manufacturer that procures for example skim milk powder from an intermediate supplier, be responsible for holding such documentation?
- Will DAFF be conducting a cost benefit analysis/regulation impact statement (RIS) in relation to the proposal of additional requirements?

How the proposed risk management measures will be operationalised will be finalised with the final report. At this draft stage these questions are not in scope.

More information

Learn more about the Import risk review for dairy products for human consumption.

Email animalbiosecurity@agriculture.gov.au.

Acknowledgement of Country

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.