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# Dairy Produce Amendment Regulations 2004 (No. 1)<sup>1</sup>

Statutory Rules 2004 No. 1<sup>2</sup>

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Dairy Produce Act 1986*.

Dated 19 AUG 2004 2004

PM Jeffery

Governor-General

By His Excellency's Command

WARREN TRUSS  
Minister for Agriculture, Fisheries and Forestry

**1 Name of Regulations**

These Regulations are the *Dairy Produce Amendment Regulations 2004 (No. 1)*.

**2 Commencement**

These Regulations commence on the date of their notification in the *Gazette*.

**3 Amendment of *Dairy Produce Regulations 1986***

Schedule 1 amends the *Dairy Produce Regulations 1986*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Regulation 2.02, note**

*omit*

**[2] Paragraph 2.03 (b)**

*substitute*

(b) dairy produce described in Parts 3 and 4 of Schedule 1A.

**[3] Regulation 2.05**

*after*

to be exported

*insert*

to the European Union

**[4] Subregulation 2.14 (2)***substitute*

- (2) The application fee payable by an exporter for each kilogram of regulated dairy produce allocated, under regulation 2.12, to the exporter for the entitlement year to which the application relates is:
- (a) for 2004 — 0.3 of a cent; and
  - (b) for a year after 2004 — 0.7 of a cent.

**[5] Division 2.3, heading***substitute*

**Division 2.3                      Export of regulated dairy produce  
to the US, other than under the  
FTA**

**[6] Regulation 2.18***substitute***2.18 Application of Division 2.3**

This Division applies in relation to consignments of eligible produce that are to be exported to the United States of America for the year 2004 or any year after that, other than produce that is mentioned in Part 4 of Schedule 1A.

**[7] Subregulation 2.27 (2)***substitute*

- (2) The application fee payable by an exporter is for each kilogram of regulated dairy produce allocated, under regulation 2.25, to the exporter for the entitlement year to which the application relates is:
- (a) for 2004 — 0.3 of a cent; and
  - (b) for a year after 2004 — 0.7 of a cent.

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[8] **After Division 2.3**

*insert*

**Division 2.3A Export of regulated dairy produce to the US under the FTA**

**Subdivision 2.3A.1 General**

**2.30A Application of Division 2.3A**

This Division applies in relation to consignments of dairy produce, mentioned in Part 4 of Schedule 1A, that are to be imported into the US without tariff.

*Note* For this Part, products are imported into the US under the terms of the free trade agreement.

**2.30B Definitions for Division 2.3A**

*access amount*, for an FTA category of dairy produce for a year, is the maximum amount of the produce that, under the FTA, may be exported in the year.

*allocation of quota* means an authorisation, given to a dairy manufacturer, setting out the maximum amount of an FTA category of dairy produce that the manufacturer is entitled to export under this Division.

*category with a set-aside* means an FTA category of dairy produce mentioned in column 2 of an item in Table 2.30C, in which the set-aside percentage set out in column 5 of the item is more than zero.

*dairy manufacturer* means a person who:

- (a) collects milk from farms and processes it; or
- (b) purchases dairy produce and:
  - (i) subjects it to a process that changes it from one kind of produce to another (for example, milk into yoghurt); or
  - (ii) repackages it.

**EXDOC** means the electronic documentation system maintained by the Australian Quarantine and Inspection Service for the control and issue of export health certificates.

**export** means export to the US under this Division.

**FTA** or **free trade agreement** means the Australia-United States Free Trade Agreement done at Washington DC on 18 May 2004, as amended from time to time.

**FTA category** of dairy produce means a category which, under the terms of the FTA, may be imported into the US free of tariff.

**ice cream and ODP category** means the ice cream sub-category of the FTA category Creams and Ice Cream and the FTA category Other Dairy Products.

**minimum allocation**, for an FTA category of dairy produce mentioned in column 2 of an item in Table 2.30C, means the amount set out in column 4 of the item.

**US** means the United States of America.

### 2.30C Categories of dairy produce

For an FTA category of dairy produce mentioned in an item in column 2 of Table 2.30C, the access amount for 2005 is the amount set out in column 3 of the item.

**Table 2.30C Categories**

Item	FTA category	Access amount 2005	Minimum allocation	Set-aside percentage
1	American Cheese	500 t	20 t	5
2	Butter	1 500 t	20 t	5
3	Cheddar Cheese	750 t	20 t	5
4	Condensed Milk	3 000 t	20 t	5

Item	FTA category	Access amount 2005	Minimum allocation	Set-aside percentage
5	Creams and Ice Cream	Sub-category cream: 5 000 000 L Sub-category ice cream: 2 500 000 L	Sub-category cream: 20 000 L Sub-category ice cream: 0	Sub-category cream: 5 Sub-category ice cream: 0
6	European-type Cheese	2 000 t	10 t	5
7	Goya Cheese	2 500 t	20 t	5
8	Non-fat Dried Milk Powder and Skim Milk Powder	100 t	20 t	0
9	Other Cheese	3 500 t	10 t	5
10	Other Dairy Products	1 500 t	0	0
11	Other Milk Powder	4 000 t	20 t	5
12	Swiss-type Cheese	500 t	10 t	5

**Subdivision 2.3A.2 Quota allocation for categories other than ice cream and ODP category — 2005 only**

**2.30D Application of Subdivision 2.3A.2**

Subdivision 2.3A.2 applies in relation to the allocation of quota for each category of dairy produce, other than produce in the ice cream and ODP category, for 2005.

**2.30E Definitions for Subdivision 2.3A.2**

*disadvantaged applicant* has the meaning given by regulation 2.30H.

*primary applicant* and *secondary applicant* have the respective meanings given in regulation 2.30J.

### 2.30F Meaning of *02/03 export amount*

- (1) For each FTA category of dairy produce that was exported in 2002 and 2003, the *02/03 export amount* of the category is calculated by:
- (a) determining, from data in EXDOC, the sum of:
    - (i) the total amount of produce in the category exported during 2002 and 2003 by all applicants under regulation 2.30G, other than a disadvantaged applicant; and
    - (ii) twice the total amount of produce in the category exported by all disadvantaged applicants during the year nominated by the applicant under subregulation 2.30G (5); and
  - (b) subtracting, from this amount, the total amount of quota allocated in the equivalent category exported under Divisions 2.2 and 2.3 in 2002 and 2003.
- (2) For paragraph (1) (b), a category mentioned in:
- (a) column 2 of an item in the following table, exported under Division 2.2 in 2002 and 2003; or
  - (b) column 3 of an item in the table, exported under Division 2.3 in 2002 and 2003;
- is the *equivalent* of the FTA category mentioned in column 4 of the item.

**Table** **Equivalents to FTA categories**

Item	Division 2.2 category	Division 2.3 category	FTA category
1	Cheddar cheese and cheddar cheese for processing	Cheddar cheese	Cheddar cheese
2	[ <i>Not applicable</i> ]	American-type cheese	American-type cheese
3	[ <i>Not applicable</i> ]	Swiss and Emmentaler cheese	Swiss-type cheese
4	[ <i>Not applicable</i> ]	Other cheese	Other cheese

**2.30G Applications for allocation of quota**

- (1) A dairy manufacturer may apply to the Secretary for an allocation of quota for 2005.
- (2) An application must:
  - (a) be made in a form approved by the Secretary; and
  - (b) include information showing the amount of dairy produce of each FTA category produced by the manufacturer in 2002 and 2003.
- (3) For paragraph (2) (b), dairy produce that is repackaged by a manufacturer is taken not to have been *produced* by the manufacturer.
- (4) It is a condition of an application that, upon request, the applicant will give the Secretary access to records so that the Secretary can confirm the accuracy of the information given for paragraph (2) (b).
- (5) If an applicant believes that, because the amounts of the applicant's production in 2002 or 2003 were significantly different from one another, the applicant would be disadvantaged if both years were used to make the calculations for subregulation 2.30I (2) or (3), the applicant may also include in the application a request that only the applicant's production for a nominated year be taken into account when calculating quota for each category of produce.

**2.30H Disadvantaged applicants**

If:

- (a) an applicant under regulation 2.30G makes a request under subregulation 2.30G (5); and
- (b) in 40% or more of the FTA categories of dairy produce produced by the applicant in 2003, the amount produced:
  - (i) exceeds the amounts produced in 2002 by 25% or more; or
  - (ii) is less than the amounts produced in 2002 by 25% or more;

then:



- (c) the applicant is a *disadvantaged applicant*; and
- (d) if quota is allocated to the applicant, the amounts of the applicant's export and production for the nominated year are used to calculate quota allocations for all categories.

## 2.30I Preliminary allocations of quota

- (1) In this regulation:

*AA*, of dairy produce in an FTA category, means the access amount of that category for 2005.

*AEA* (or *applicant's export amount*), of dairy produce in an FTA category, means the amount of produce of the category exported by the applicant (other than produce exported under Divisions 2.2 and 2.3) during 2002 and 2003, calculated using data from EXDOC.

*AEY* (or *applicant's exports for year*), of dairy produce in an FTA category, means the amount of produce of the category exported by the applicant (other than produce exported under Divisions 2.2 and 2.3) in the year nominated by the applicant under subregulation 2.30G (5), calculated using data from EXDOC.

*APA* (or *applicant's production amount*), of dairy produce in an FTA category, means the amount of produce of the category produced by the applicant during 2002 and 2003, calculated from the data given by the applicant under subregulation 2.30G (5).

*APY* (or *applicant's production for year*), of dairy produce in an FTA category, means the amount of the category of dairy produce produced by the applicant in the year nominated by the applicant under subregulation 2.30G (5).

*TPA* (or *total production amount*), of dairy produce in an FTA category, means the sum of:

- (a) the total amount of produce of the category that was produced by all applicants, other than disadvantaged applicants, in 2002 and 2003, calculated from the data given by the applicants under paragraph 2.30G (2) (b); and
- (b) twice the total amount of produce in the category produced by all disadvantaged applicants during the year nominated by the applicant under subregulation 2.30G (5).

- (2) The preliminary quota allocation, to an applicant that is not a disadvantaged applicant, for a category with a set-aside is:

$$AA \times \frac{(AEA \times 2) + APA}{(02/03 \text{ export amount} \times 2) + TPA}$$

- (3) The *preliminary quota allocation*, to a disadvantaged applicant, for a category with a set-aside is:

$$AA \times \frac{(AEY \times 4) + (APY \times 2)}{(02/03 \text{ export amount} \times 2) + TPA}$$

### 2.30J Identifying primary and secondary applicants

- (1) If the applicant's preliminary quota allocation for a category with a set-aside is at least half of the minimum allocation for the produce, the applicant is a *primary applicant* for that category.
- (2) An applicant that is not a primary applicant is a *secondary applicant* for the category.

### 2.30K Final quota allocations to primary applicants for a category with a set-aside

- (1) The following steps show how to work out, for each primary applicant, the final quota allocation for a category with a set-aside.

Step 1. For each primary applicant, round the amount of the preliminary quota allocation, calculated under regulation 2.30I, so it is divisible by the amount of the minimum allocation with no remainder, 50% of an allocation being rounded up.

Step 2. If the sum of the rounded amounts calculated in Step 1 is less than 95% of the access amount for the category, subtract the total of the sum of the rounded amounts from 95% of the access amount, giving the *additional amount*.

Step 3. Allocate extra quota to the primary applicants in proportion to each applicant's preliminary quota allocation, so

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that the sum of the extra quota allocations equals the additional amount.

Step 4. If the total of the rounded amounts calculated in Step 1 is more than 95% of the access amount for the category, subtract 95% of the access amount from the total of the rounded amounts, giving the *withdrawal amount*.

Step 5. Withdraw quota, from the primary applicants whose preliminary quota allocations exceed the minimum amount, in proportion to each of these applicants' preliminary quota allocation so that the sum of the withdrawn quota allocations equals the withdrawal amount.

- (2) The final quota allocation for each primary applicant is:
- (a) if the sum of the rounded amounts calculated in Step 1 equals 95% of the access amount for the category — the amount resulting after Step 1; or
  - (b) if an additional amount is calculated — the amount resulting after Step 3, rounded to the nearest tonne, 500kg being rounded up; or
  - (c) if a withdrawal amount is calculated — the amount resulting after Step 5, rounded to the nearest tonne, 500kg being rounded up.

### **2.30L Final quota allocations — secondary applicants for a category with a set-aside**

The following steps show how to work out, for secondary applicants, the final quota allocation for a category with a set-aside.

Step 1. Divide 5% of the access amount by the number of secondary applicants.

Step 2. If the result of Step 1 is equal to or less than the minimum allocation for the category, the final quota allocation for each applicant is an amount equal to the result of Step 1.

Step 3. If the result of Step 1 is an amount greater than the minimum allocation for the category:

- (a) the final quota allocation for each applicant is an amount equal to the minimum allocation; and
- (b) the remaining amount is allocated equally between all applicants whose final quota allocation is equal to or less than:
  - (i) 5% of the access amount; or
  - (ii) 4 times the minimum allocation.

### **2.30M Final quota allocations — Non-fat Dried Milk Powder and Skim Milk Powder**

- (1) The following steps show how to work out the final quota allocation to an applicant for the FTA categories Non-fat Dried Milk Powder and Skim Milk Powder.

Step 1. For each applicant, round the amount of the preliminary quota allocation calculated under regulation 2.30I so it is divisible by the amount of the minimum allocation with no remainder, 50% of a minimum allocation being rounded up.

Step 2. If the sum of the rounded amounts calculated in Step 1 is less than the access amount for the category, subtract the total of the rounded amounts from the access amount, giving the *additional amount*.

Step 3. Allocate extra quota to all the applicants in proportion to each applicant's preliminary quota allocation so that the extra quota allocations equal the additional amount.

Step 4. If the total of the rounded amounts calculated in Step 1 is more than the access amount for the category, subtract the access amount from the total of the rounded amounts, giving the *withdrawal amount*.

Step 5. Withdraw quota from each applicant whose allocation exceeds the minimum allocation, in proportion to each applicant's preliminary quota allocation, so that the sum of the withdrawn quota allocations equals the withdrawal amount.

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- (2) The final quota allocation for each applicant is:
- (a) if the sum of the rounded amounts calculated in Step 1 equals the access amount for the category — the amount resulting after Step 1; or
  - (b) if an additional amount is calculated — the amount resulting after Step 3, rounded to the nearest tonne, 500kg being rounded up; or
  - (c) if a withdrawal amount is calculated — the amount resulting after Step 5, rounded to the nearest tonne, 500kg being rounded up.

### **2.30N Final quota allocations — cream**

- (1) A final quota allocation for the FTA category Cream is granted subject to the condition that, if the holder:
- (a) has not obtained US registration of approved premises to supply cream by the end of 30 June 2005; or
  - (b) is not able to present evidence that registration will be granted before 23 August 2005;
- the allocation is withdrawn.
- (2) Any quota allocation withdrawn under subregulation (1) must be allocated among the other quota holders in proportion to the amount of quota held by each.

### **2.30O Secretary to tell applicant about amount of quota**

If the Secretary grants an allocation of quota to an applicant, the Secretary must give the applicant a statement setting out the amount of the quota.

### **Subdivision 2.3A.3 Quota allocation for categories other than ice cream and ODP category — 2006 and subsequent years**

#### **2.30P Application of Subdivision 2.3A.3**

Subdivision 2.3A.3 applies in relation to the allocation of quota for each category, other than produce in the ice cream and ODP category, for 2006 and each subsequent year.

### 2.30Q Applications for allocation of quota

A dairy manufacturer may apply to the Secretary, in a form approved by the Secretary, for an allocation of quota for 2006 and each subsequent year.

### 2.30R Allocation of quota

- (1) In this regulation:

**new entrant**, in relation to a category under this Subdivision and a year, means a dairy manufacturer who had not held an allocation of quota for the category before the year.

**primary quota holder**, in relation to a category under this Subdivision and a year, means a person who, in the previous year, held an allocation of quota for the category that was greater than:

- (a) 5% of the access amount for the category; or
- (b) 4 times the minimum amount for the category.

**secondary quota holder**, in relation to a category under this Subdivision and a year, means a person, other than a primary quota holder, who, in the previous year, held an allocation of quota for the category.

**total forfeits** means the sum of the amounts of quota forfeited by all quota holders under subregulations 2.30Z (6) and 2.30ZA (2).

*Note* Although only dairy manufacturers are entitled to apply for an allocation of quota, other persons, such as exporters, may acquire quota by a transfer under regulation 2.30Z.

- (2) For this regulation, the **additional access amount** for a category under this Subdivision for the year is:

$$\text{PAA} \times \text{percentage increase}$$

where:

**percentage increase** is the yearly percentage increase for the category under the terms of the FTA.

**PAA** (or **previous access amount**) is the access amount of the category of dairy produce for the previous year.

- (3) The following steps show how to work out, for each primary quota holder, secondary quota holder and new entrant, the quota allocation for each category under this Subdivision.

Step 1. Allocate to each primary quota holder and secondary quota holder an amount equal to the amount of quota allocated to the holder for the previous year, taking into account any amounts of quota that were:

- (a) forfeited, under subregulation 2.30Z (6) or 2.30ZA (2) or both, by the holder in that year; and
- (b) transferred to or from the holder, under regulation 2.30Z.

Step 2. Allocate to each primary quota holder and secondary quota holder an amount of quota in proportion to the holder's allocation under Step 1, so that the sum of the additional amounts equals the sum of:

- (a) half of the additional access amount; and
- (b) total forfeits.

Step 3. Allocate an equal amount to each new entrant and secondary quota holder so that the sum of the allocations for this step equals half of the additional access amount.

#### **Subdivision 2.3A.4 Export approvals for ice cream and ODP category**

##### **2.30S Application of Subdivision 2.3A.4**

Subdivision 2.3A.4 applies in relation to export approvals for dairy produce in the ice cream and ODP category that are to be granted in 2005 and each subsequent year.

##### **2.30T Access amounts**

- (1) For the FTA category Other Dairy Products, the access amount for dairy produce for 2005 is divided into the following sub-categories:
  - (a) for produce that corresponds to any US Harmonised Tariff Code set out in column 2 of Part 1 of Schedule 1B — 1 350 tonnes;

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- (b) for produce that corresponds to any US Harmonised Tariff Code set out in column 2 of Part 2 of Schedule 1B — 150 tonnes.
- (2) The access amounts for 2006 and each subsequent year for dairy produce in the ice cream and ODP category are calculated by increasing the amounts for the previous year by the appropriate percentage specified for the category in the FTA.

### **2.30U Applications for export approvals**

- (1) In this regulation:
- application day*** means:
- (a) 1 November in any year; or
- (b) if 1 November in a year is not a working day — the next working day after 1 November.
- working day*** means a day that is not a Saturday, Sunday or public holiday in the Australian Capital Territory.
- (2) A person may apply to the Secretary for an export approval under this Subdivision.
- (3) An application must:
- (a) be in a form approved by the Secretary; and
- (b) be for approval to export a specified amount of the category of produce; and
- (c) specify the day or days on which the applicant intends to export the produce.
- (4) Applications for approval to export in a particular year may be made on or after the application day in the previous year.
- (5) The application must include evidence that the applicant's consignments of produce will be imported into the US.
- (6) For subregulation (5), ***evidence*** includes the following:
- (a) a copy of the agreement, or the relevant part of the agreement, under which the produce will be imported into the US;



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- (b) a statement describing:
    - (i) an agreement that has been made (including an agreement that is subject to quota being available); or
    - (ii) an offer to enter an agreement of a kind mentioned in subparagraph (i);even if confidential matters are not included in the statement.

### **2.30V Export approvals**

- (1) The Secretary must deal with applications made under regulation 2.30U on a first-come-first-served basis.
- (2) However, if, on the application day, applications are made for more than the access amount, then, subject to subregulation (3):
  - (a) each applicant receives an approval to export an amount that is equal to the access amount divided by the number of applicants; or
  - (b) if distributing the amount in accordance with paragraph (a) would lead to an applicant (an *excess-quota applicant*) being approved to export a greater amount than the applicant applied for:
    - (i) each excess-quota applicant receives approval to export the amount that the applicant applied for; and
    - (ii) each other applicant receives approval to export an amount that is equal to the access amount remaining after the distribution mentioned in subparagraph (i), divided by the number of other applicants.
- (3) If a person applies, under this Subdivision, for an export approval, the Secretary must grant the approval unless the grant would result in:
  - (a) the applicant being approved to export more than a third of the access amount for the category; or
  - (b) the total amount of produce approved for export exceeding the access amount for the category.

- (4) If the Secretary grants an export approval to an applicant, he or she must give the applicant a quota certificate as evidence of the approval.

### **2.30W Forfeiture of approval**

- (1) Subregulation (2) applies in relation to an approval to export an amount of dairy produce under this Subdivision if the holder of the approval fails to export at least 95% of the amount by:
  - (a) the day or days specified for paragraph 2.30U (3) (c) for the export of the produce; or
  - (b) if the export is delayed for a reason or reasons beyond the control of the holder — no more than 28 days after each day specified for the export.
- (2) The approval for the amount not exported is withdrawn.

### **Subdivision 2.3A.5 Miscellaneous**

#### **2.30X Application for quota certificate — categories other than ice cream and ODP category**

- (1) The holder of unused quota for dairy produce other than produce in the ice cream and ODP category may apply to the Secretary for a quota certificate in respect of any amount of the unused quota.
- (2) If the Secretary approves the application, the Secretary must give the applicant a quota certificate as evidence of the approval.

#### **2.30Y Export of dairy products**

A quota certificate issued under subregulation 2.30V (4) or 2.30X (2) in respect of an FTA category of dairy produce is evidence of an approval to export the produce.

Note Dairy produce without a certificate will not be imported into the US free of tariff.

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### 2.30Z Transfer of quota

- (1) The holder of quota for an FTA category of dairy produce (the *transferor*) may transfer some or all of the quota to another person (the *transferee*).
- (2) The terms of a transfer agreement must provide that the transfer:
  - (a) is permanent; or
  - (b) is to revert to the transferor at the end of the year for which the transfer is made.
- (3) A transfer is not validly made unless the transferor sends the Secretary a notice that includes the following:
  - (a) the name of the transferor and the transferee;
  - (b) the amount of quota being transferred;
  - (c) whether the transfer is permanent, or reverts to transferor at the end of the year.
- (4) It is not a transfer of quota if a holder authorises an agent to export dairy produce on behalf of the holder.
- (5) If a transferor transfers quota to the same transferee for 2 consecutive years, the transfer becomes permanent at the start of the third year.
- (6) If a transferor transfers quota to different transferees in 2 consecutive years, at the start of the third year the transferor forfeits the quota.

*Note* Quota forfeited under subregulation (6) becomes available to other applicants in the third year: see subregulation 2.30R (3).

### 2.30ZA Forfeiture of quota

- (1) This regulation applies in relation to quota for dairy produce other than produce in the ice cream and ODP category, if the holder fails to export 95% of the allocated amount for 2 consecutive years, other than 2005 and 2006.

- (2) The holder forfeits an amount of quota that is:

$$\text{Old quota} - \left( \frac{\text{first year's exports} + \text{second year's exports}}{2} \right)$$

where:

*first year's exports* is the amount of the category exported by the holder in the first year.

*old quota* is the holder's quota for the category for the second year, taking into account any transfers made by the holder during the year.

*second year's exports* is the amount of the category exported by the holder in the second year.

### 2.30ZB Quota may be withdrawn

- (1) The Secretary may, on a day specified by the Secretary (the *re-allocation day*), withdraw quota for a category with a set-aside if:
- (a) before 23 August in the year for which the quota was allocated, the holder of the quota gives the Secretary a request in writing to withdraw the quota; or
  - (b) on or after 23 August in that year, the holder does not tell the Secretary, in writing, how the holder intends to deal with the holder's unused quota, if any.
- (2) The Secretary may re-allocate any withdrawn quota (the *extra quota*) to a person who applies for the quota, if the applicant is able to show that the quota will be used in that year.
- (3) The Secretary must deal with applications under subregulation (2) on a first-come-first-served basis.
- (4) However, if, on the re-allocation day, applications are made for more than the extra quota:
- (a) each applicant is granted quota that is equal to the extra quota divided by the number of applicants; or
  - (b) if distributing the extra quota in accordance with paragraph (a) would lead to an applicant (an *excess-quota*

*applicant*) being granted more quota than the applicant applied for:

- (i) each excess-quota applicant receives the amount of quota that the applicant applied for; and
- (ii) each other applicant receives quota that is equal to the extra quota amount remaining after the distribution mentioned in subparagraph (i), divided by the number of other applicants.

### **2.30ZC Fees (Act, s 54)**

For paragraph 54 (2) (b) of the Act, the fee for an application to export dairy produce under this Division is 0.7 of a cent for each kilogram of dairy produce that the applicant is entitled to export under a quota certificate given under this Division.

### **[9] Schedule 1A, after Part 3**

*insert*

## **Part 4 Dairy produce for the US under the FTA**

<b>Item</b>	<b>Produce</b>
1	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Creams and Ice Cream</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0401.30.25, 0403.90.16 and 2105.00.20 of the Harmonised Tariff Code.
2	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Condensed Milk</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0402.91.70, 0402.91.90, 0402.99.45 and 0402.99.55 of the Harmonised Tariff Code.

Item	Produce
3	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Butter</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0401.30.75, 0402.21.90, 0403.90.65, 0403.90.78, 0405.10.20, 0405.20.30, 0405.90.20, 2106.90.26 and 2106.90.36 of the Harmonised Tariff Code.
4	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Non-fat Dried Milk Powder and Skim Milk Powder</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0402.10.50 and 0402.21.25 of the Harmonised Tariff Code.
5	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Other Milk Powder</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0402.21.50, 0403.90.45, 0403.90.55, 0404.10.90, 2309.90.28 and 2309.90.48 of the Harmonised Tariff Code.
6	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Other Dairy Products</i> that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0402.29.50, 0402.99.90, 0403.10.50, 0403.90.95, 0404.10.15, 0404.90.50, 0405.20.70, 1517.90.60, 1704.90.58, 1806.20.26, 1806.20.28, 1806.20.36, 1806.20.38, 1806.20.82, 1806.20.83, 1806.20.87, 1806.20.89, 1806.32.06, 1806.32.08, 1806.32.16, 1806.32.18, 1806.32.70, 1806.32.80, 1806.90.08, 1806.90.10, 1806.90.18, 1806.90.20, 1806.90.28, 1806.90.30, 1901.10.30, 1901.10.40, 1901.10.75, 1901.10.85, 1901.20.15, 1901.20.50, 1901.90.43, 1901.90.47, 2105.00.40, 2106.90.09, 2106.90.66, 2106.90.87, and 2202.90.28 of the Harmonised Tariff Code.
7	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Cheddar Cheese</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0406.10.28, 0406.20.33, 0406.20.67, 0406.30.28 and 0406.30.67, 0406.90.12 and 0406.90.78 of the Harmonised Tariff Code.

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Item	Produce
8	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>American Cheese</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0406.10.38, 0406.20.39, 0406.20.71, 0406.30.38, 0406.30.71, 0406.90.54 and 0406.90.84 of the Harmonised Tariff Code.
9	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Swiss-type Cheese</i> products that will enter the United States of America within the Free Trade Agreement preferential tariff-rate quota under subheading 0406.90.48 of the Harmonised Tariff Code.
10	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>European-type Cheese</i> products that will enter the United States of America under subheading 0406.10.18, 0406.10.48, 0406.10.58, 0406.10.68, 0406.20.28, 0406.20.48, 0406.20.53, 0406.20.63, 0406.20.75, 0406.20.79, 0406.20.83, 0406.30.18, 0406.30.48, 0406.30.53, 0406.30.63, 0406.30.75, 0406.30.79, 0406.30.83, 0406.40.70, 0406.90.18, 0406.90.32, 0406.90.37, 0406.90.42, 0406.90.68, 0406.90.74, 0406.90.88 and 0406.90.92 of the Harmonised Tariff Code.
11	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Other Cheese</i> products that will enter the United States of America under subheading 0406.10.08, 0406.10.88, 0406.20.91, 0406.30.91 and 0406.90.97 of the Harmonised Tariff Code.
12	Dairy produce mentioned in Annex 2-B to the (FTA) Schedule of the United States, General Notes, being <i>Goya Cheese</i> products that will enter the United States of America under subheading 0406.90.33 of the Harmonised Tariff Code.

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## Schedule 1B

Subregulation 2.30T (1)

### Part 1 Category A produce

Item	Code	Abbreviated description of product
1	04022950	Milk and cream, conc, sweetened, in powder, granules/other solid forms, fat by wt>1.5%, not subj GN 15
2	04029990	Milk and cream (except condensed milk) concentrated in non-solid forms, sweetened
3	04031050	Yoghurt, in dry form, whether or not flavoured or containing added fruit or cocoa, not subj to GN 15
4	04039095	Curdled milk/cream/kephir and other fermented or acidified milk/cream, subj to GN 15
5	04041015	Modified whey (except protein conc.), whether or not conc. Or sweetened not subj to GN 15
6	04049050	Dairy products of natural milk constituents (except protein conc.) descry in Ch 4 US Add. Note 1, not subj to GN 15
7	04052070	Other dairy spreads of a type provided in Ch 4, Add. Note 1, not subj to GN 15, over quota
8	19011030	Infant formula with oligossacharides, for retail sale, >10% milk solids, not subj to Ch 19 Note 2, not subj to GN 15
9	19011040	Preps for infant use (dairy prod. Of add US Note 1 to Ch 4), for retail sale, >10% milk solids, not subj to Ch 4 Note 10
10	19011075	Infant formula with oligossacharides, for retail sale, <10% milk solids, not subj to Ch 19 Note 2, not subj to GN 15
11	19011085	Preps for infant use (dairy prod. Of add US Note 1 to Ch 4), for retail sale, <10% milk solids, not subj to Ch 4 Note 10
12	19012015	Mixes for bakers wares (dairy prod of Ch 4, US Note 1), butterfat by wt >25%, not retail, not subj to Ch 4 Note 10, not GN 15
13	19012050	Mixes for bakers wares (dairy prod of Ch 4, US Note 1), butterfat by wt <25%, not retail, not subj to Ch 4 Note 10, not GN 15
14	19019043	Dairy preps >10% milk solids (Descr in Ch 4, US Note 1) neosi, not subj Ch 4 Note 10, not GN 15



Item	Code	Abbreviated description of product
15	19019047	Dairy preps <10% milk solids (Descr in Ch 4, US Note 1) neosi, not subj Ch 4 Note 10, not GN 15
16	21050040	Edible ice except ice cream, dairy products descry in Ch 4 Note 1, neosi
17	21069009	Food preps, neosi, <5.5% butterfat, mixed w/other ingredients, if >16% milk solids, further proc'able, not Ch 4 Note 1, not GN 15
18	21069066	Food preps, neosi, >10% milk solids, dairy products descry in Ch 4 US Note 1, not subj Ch 4 Note 10, not GN 15
19	21069087	Food preps, neosi, <10% milk solids, dairy products descry in Ch 4 US Note 1, not subj Ch 4 Note 10, not GN 15
20	22029028	Non-alcoholic milk-based drinks (except chocolate), not subj Ch 4 Note 10, not GN 15

## Part 2 Category B produce

Item	Code	Abbreviated description of product
1	15179060	Edible mixtures & preparations, dairy products in US add'l note 1 to Ch 4, not subj to GN 15
2	17049058	Sugar confectionery, neosi, w/out cocoa, dairy products subj to add US note 1 to Ch 4
3	18062026	Chocolate, >2 kg, cont milk solids, not in blocks >4.5 kg, >5.5% butterfat, <21% milk solids, not subj GN 15
4	18062028	Chocolate, >2 kg, cont milk solids, not in blocks >4.5 kg, >5.5% butterfat, >21% milk solids, not subj GN 15
5	18062036	Chocolate, >2 kg, cont milk solids, not in blocks >4.5 kg, <21% milk solids, not subj GN 15
6	18062038	Chocolate, >2 kg, cont milk solids, not in blocks >4.5 kg, <21% milk solids, not subj GN 15
7	18062082	Choc./other preps w/cocoa, 2-4.5 kg, (dairy prod of Ch 4 US note 1), <65% sugar, <21% milk solids, not GN 15
8	18062083	Choc./other preps w/cocoa, 2-4.5 kg, (dairy prod of Ch 4 US note 1), <65% sugar, >21% milk solids, not GN 15
9	18062087	Low fat chocolate crumb, sugar by wt <65%, 2-4.5 kg, 21% milk solids, not subj GN 15, not subj Ch 18 note 3

Item	Code	Abbreviated description of product
10	18062089	Low fat chocolate crumb, sugar by wt <65%, <2 kg, 21% milk solids, not subj GN 15, not subj Ch 18 note 3
11	18063206	Chocolate, not filled, >5.5% butterfat, <21% milk solids, in blocks/bars/slabs <2 kg
12	18063208	Chocolate, not filled, >5.5% butterfat, >21% milk solids, in blocks/bars/slabs <2 kg
13	18063216	Chocolate, not filled, <21% milk solids, in blocks/bars/slabs <2 kg
14	18063218	Chocolate, not filled, >21% milk solids, in blocks/bars/slabs <2 kg
15	18063270	Cocoa preps (dairy prod of Ch 4 US note 1), <21% milk solids, not filled, in blocks/slabs/bars <2 kg, not 4.10
16	18063280	Cocoa preps (dairy prod of Ch 4 US note 1), >21% milk solids, not filled, in blocks/slabs/bars <2 kg, not 4.10
17	18069008	Cocoa preps (dairy prod of Ch 4 US note 1), <21% milk solids, not filled, not in blocks/slabs/bars <2 kg, not GN 15
18	18069010	Cocoa preps (dairy prod of Ch 4 US note 1), >21% milk solids, not filled, not in blocks/slabs/bars <2 kg, not GN 15
19	18069018	Cocoa preps, bfat by wt >5.5%, <21% milk solids, not in blocks/slabs/bars, not GN 15
20	18069020	Cocoa preps, bfat by wt <5.5%, >21% milk solids, not in blocks/slabs/bars, not GN 15
21	18069028	Cocoa preps, cont milk solids, bfat by wt <5.5%, <21% milk solids, not in blocks/slabs/bars, not 18..3, not GN 15
22	18069030	Cocoa preps, cont milk solids, bfat by wt <5.5%, >21% milk solids, not in blocks/slabs/bars, not 18..3, not GN 15

### Notes

- These Regulations amend Statutory Rules 1986 No. 166, as amended by 1986 No. 237; 1987 Nos. 42 and 263; 1990 Nos. 384, 424 and 433; 1995 Nos. 209 and 310; 2003 Nos. 135 and 276.
- Notified in the *Commonwealth of Australia Gazette* on          2004.

*26 August*