



# A legacy relic

From a trade perspective, the Australian Cheese and Curd Quota Scheme is important for encouraging reform, writes **Bianca Flint** of Freight & Trade Alliance and the Australian Peak Shippers Association

## WORKING FOR FREIGHT & TRADE

Alliance and the Australian Peak Shippers Association in an advocacy capacity has been a goal of mine, so I was excited to take the lead on my first project: the Australian Cheese and Curd Quota Scheme.

The scheme is a legacy relic with little publicly available information about its origins and purpose.

The current quota scheme covers a tariff-rate quota (TRQ) that limits the quantity of cheese and curd that can enter Australia at a lower in-quota tariff rate. Any additional quantity outside the TRQ is subject to a higher out-of-quota tariff rate.

There are a range of trade measures that can be introduced to counter unfair trade practices, and quota schemes are one such method. The introduction of the Cheese and Curd Quota Scheme stems from an original countervailing duty action regulated under the *Customs Tariff (Anti-Dumping) Act 1975*.

In the past, our trading environment looked very different. We had a thriving domestic cheese and curd manufacturing industry, so the Australian government

introduced a cheese quota to protect the local industry in response to European Union export subsidies on cheese. If you were a top cheese importer back in 1985-86, you would have been offered a quota allocation based on your import volumes, which allowed you to import cheese at a specified lower tariff rate.

The quantity of quota was set at 11,500 tonnes per annum and was imposed on cheese imports subject to the tariff of \$96 per tonne – imports in excess of 11,500 tonnes were subject to a much higher tariff of \$2100 per tonne. The tariff level was set above the Australian-dollar equivalent of the highest European community export refunds (subsidies to producers) on cheeses at the time of the quota introduction.

## CONTEMPORARY ENVIRONMENT

The modern-day market, the volume, trading partners, importers, and types of products that fall within this scheme have changed drastically. The scheme, devised initially as a provisional remedy, was never meant to be a lasting solution. Its purpose was to offer a rapid resolution, with the pretence that the Anti-Dumping

Commission would refine the approach in line with the World Trade Organization principles to protect the domestic cheese and curd market.

A formal investigation into anti-dumping measures has not been initiated to date, leaving the extent of necessary protection for the domestic cheese market uncertain. Based on current market data and industry insights, it is apparent that the domestic market cannot adequately cater to Australian general consumer demands. Australia imports sizable volumes of cheese from New Zealand, the USA and the EU, with the EU being the largest source by value and NZ the largest source by volume in recent years.

While cheese from NZ and the US enters Australia duty-free under existing free trade agreements, the EU accounts for a significant portion of cheese imported under the TRQ, and a sizable volume of EU cheese is imported at the higher out-of-quota tariff rate.

## ONGOING RELEVANCE TO THE SCHEME

The scheme was introduced in 1987 under the legislation. The quota should have

ceased to apply on 1 July 1992; however, the cheese TRQ was bound in Australia's WTO goods schedule during the Uruguay Round (concluded in 1994), which came into force in 1995.

Let's now look at how this scheme is being managed and how it operates in the current market.

The scheme is governed by the Livestock and Strategy Branch, Agricultural Policy Division, Department of Agriculture, Fisheries and Forestry and the Trusted Trader and Trade Compliance Branch, Customs Division, Australian Border Force. These two branches govern the system in its original 1986 format. Here is where FTA's interest in the scheme lies. The biggest issue this scheme faces is the environment it fosters for anti-competitive behaviours. There has been no update to the TRQ quantity, no update to how it's allocated, no update to how it's governed in nearly 40 years.

The WTO considers that protectionism, in general, is unwise because of the potential damage it causes. Trade barriers such as quotas may cause additional damage because they provide opportunities for corruption and other forms of bad government. Governments have therefore agreed through the WTO's rules and following the Uruguay Round that their use should be discouraged; however, TRQs can be utilised as a safety net mechanism when accessing a closed market for the first time.

It's nearly impossible to obtain a TRQ allocation as a cheese importer unless you were an original importer back in 1985-86. Most cheese importers have only been established in the Australian market in the last 10 to 15 years, and demand for imported cheese is high due to advancements in supply chain.

As part of our investigations into the scheme, we had extensive stakeholder engagement with some of our cheese-importing members, interviews with industry heavyweights and various government departments, including DAFF, ABF and the Department of Foreign Affairs and Trade.

#### ADVOCACY FOR REFORM

The implementation of the cheese TRQ system encourages anti-competitive behaviour, as it lacks provisions for new importers to seek TRQ allocations through the various managing departments.

As TRQs limit supply at the lower in-quota tariff rate, they artificially raise prices, creating abnormally large profits for companies selling inside the quota scheme. Such circumstances create market distortions and monopolies, and

The current implementation and management of the scheme lacks provisions for new importers to seek TRQ allocations through the various managing departments. This contrasts with the management of cheese quotas by nations such as Canada, where an annual allocation allowance of 30% of the total revenue quota is allocated to new entrants, or in the US, where applicants directly apply to the department based on their precise import requirements.

Reforming the quota scheme is crucial for modernising its management and aligning it with contemporary trade practices. The current framework inadvertently creates a conducive environment for possible collusion among cheese importers holding TRQ allocations. This situation could potentially lead to anti-competitive

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current holders will do almost anything to retain their TRQ allocations to ensure their competitive advantage. Importers that hold TRQ allocations that have not utilised their total allowance within the financial year period tend to participate in two questionable ungoverned business practices, the first of which involves auctioning the TRQ allocation off like stocks to profit from the asset. It's then transferred after the sale of the asset.

They will also internally develop domestic business agreements with other importers or Australian resellers, where they import products on behalf of these entities to ensure they utilise their TRQ allocations and retain it.

practices and unethical business conduct to preserve financial advantages.

The current TRQ system fails to adequately safeguard the domestic market, which is the fundamental purpose of such a system.

Instead, it produces an adverse outcome wherein only a select few prosper from the significant benefit of holding allocation, while much of the industry faces disadvantages. This disparity stifles the potential for economic growth within the sector.

To address these issues, FTA will continue its advocacy to establish greater transparency, a level playing field for all importers and fairness within the scheme. ■



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