



## **Application to amend the Australia New Zealand Food Standards Code**

### **Alignment of treatment of coconut milk products with Codex standards**

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### **PART 3.1.1 GENERAL REQUIREMENTS**

#### **B APPLICANT DETAILS**

- (a) Applicant: Food and Beverage Importers Association (FBIA)
- (b) Name of contact person:
- (c) Street address: Level 2 / 441 St Kilda Road, Melbourne VIC 3004  
Postal address: PO Box 7622, Melbourne VIC 3004
- (d)
- (e) Email address:
- (f) Nature of applicant's business

The Food and Beverage Importers Association is an industry body that focuses on regulatory controls applying to food and beverage imports and on operational matters and logistics issues facing food and beverage importers.

- (g) Details of other individuals, companies or organisations associated with the application.

A list of members is attached as *Attachment One*.

The applicant's intention to make an application to amend the Australia New Zealand Food Standards Code that has been discussed at a meeting of the Food and Beverage Importers Association and is fully supported by the Association. Companies specifically supporting the application include Manassen Foods; Oriental Merchant; Riviana Foods; Scalzo Food Industries; and Woolworths.

#### **C PURPOSE OF THE APPLICATION**

The purpose of the application is to align treatment of canned coconut milk products in the Australia New Zealand Food Standards Code with the treatment in Codex Alimentarius standards to facilitate the continued trade in canned coconut milk products.

The food regulatory measure(s) that need to be varied to achieve the intended purpose of the application are:

- Standard 1.3.1 – Food additives
- Schedule 15 – Substances that may be used as food additives

#### **D JUSTIFICATION FOR THE APPLICATION**



## **(a) Need for the proposed change**

### Canned coconut milk products

Coconut milk is the liquid extract that comes from the grating of coconut endosperm or meat. To produce canned coconut milk products, various grades of the liquid coconut extract are combined, generally with water as a filler, then processed by heat and hermetically sealed to prevent spoilage.

As an oil-in-water emulsion, coconut milk is relatively unstable and readily separates into a heavy aqueous (water) phase and a fat phase as the top layer. To counteract the propensity of separation, additives (e.g., emulsifiers, stabilisers, thickeners) may be used to enhance the stability of the product. When used by a consumer, the coconut milk will then present in consistent, even colour and appearance.

A flow-chart of canned coconut milk production is attached as *Attachment Two*.

Recognising that there is this technical problem and the importance of the trade to the Asian region, Codex has established a standard for packaged coconut milk and coconut cream products: *Codex Standard for Aqueous Coconut Products – Coconut Milk and Coconut Cream (Codex Stan 240-2003)* (see *Attachment Three*). This standard allows for the addition of a range of emulsifiers; stabilisers; thickeners; preservatives; and bleaching agents, as there is a demonstrable need for the use of these additives and they fulfil a technological function by enhancing the stability of the food to the benefit of consumers.

### Use of coconut milk

Coconut milk is a common ingredient in many Asian and tropical cuisines. Canned coconut milk products provide a convenient form of coconut milk for use in the preparation of meals, particularly those made to Asian recipes. Canned coconut milk products are available in a range of fat contents that determines the culinary use of the product. Higher fat coconut milk products (typically described as coconut cream) are generally used in making desserts, while lower fat products are used in general cooking.

Liquid coconut milk and cream products are also imported for industrial use by Australian food processors, primarily for snack, biscuit and bakery products.

### Trade

There has been long-standing trade in canned coconut milk products. They are sourced from Thailand (80%), Malaysia (10%) and Vietnam, Indonesia and Sri Lanka (10%).

For customs tariff purposes, canned coconut milk products are classified as miscellaneous edible preparations:

- *HS 2106 - Food preparations not elsewhere specified or included*
- *HS 2106.90.90 – other*



There is no tariff code or statistical code that provides for specific details of imports of canned coconut milk products. Accordingly, the Australian Bureau of Statistics does not report the quantity and value of canned coconut milk products.

The import value of the trade is estimated to be about \$A55 million per annum.

There is no domestic production of canned coconut milk products in Australia.

#### Sale of canned coconut milk products

For the consumer market, canned coconut milk products are ranged in the Asian specialty section of a supermarket, along with other ingredients typically used in the preparation of meals. They are clearly marketed, promoted and sold as a cooking ingredient. It is not uncommon for the labels of these products to carry product information statements such as "Ideal for Thai curries and stir-fries". As well, suppliers of these products provide recipes in which their canned coconut milk products are used as a key ingredient.

Canned coconut milk products are not positioned on shelves in the drinks or beverage section of any supermarket or available for sale in the refrigerated drinks zones of any retail outlet. They are not marketed or sold as drinks for human consumption and indeed, would not be regarded as fit or suitable for drinking.

#### The Issue

There is no specific standard for canned coconut milk products, like the Codex standard, in the Australia New Zealand Food Standards Code. Permitted uses of additives are therefore regulated by Standard 1.3.1 – Food Additives and Schedule 15 – Substances that may be used as food additives.

Schedule 15, however, does not provide a single clear answer to the question of the appropriate heading or sub-heading under which canned coconut milk products should be classified.

One possibility is the specific listing for "coconut milk, coconut cream and coconut syrup" under the sub-heading "14.1.2.1 - Fruit and vegetable juice" within the Commodity Heading "14. Non-Alcoholic and Alcoholic Beverages". That heading covers beverages and juices. As explained above, the canned coconut milk products that are covered by this application are not beverages or juices; their use is restricted to a cooking ingredient and are not suitable for consumption as a beverage or juice. This classification is not appropriate.

A second possibility is to take as the starting point the fact that these products are derived from fruit. This starting point leads to classifications in Heading 4 – Fruits and Vegetables (including fungi, nuts, seeds, herbs and spices) in Schedule 15. Two sub-headings at least seem relevant:

- sub-heading 4.3.6 "Fruit and vegetable preparations including pulp", or
- sub-heading 4.3.8 "Other fruit and vegetable products".

This second approach would follow the path taken by Codex. The "Codex General Standard for Food Additives" (GSFA, Codex STAN 192-1995) sets out the conditions under which



permitted food additives may be used in all foods, whether they have previously been standardised by Codex, or not. The GFSA applies a food category system for assigning food additives used in this Standard and that system applies to all foodstuffs. The GFSA categorises coconut milk products of the type covered by this application as follows:

*“04.0 Fruits and vegetables (including mushrooms and fungi, roots and tubers, pulses and legumes, and aloe vera), seaweeds, and nuts and seeds*

*04.1 Fruit*

*04.1.2 Processed fruit*

*04.1.2.8 Fruit preparations, including pulp, purees, fruit toppings and coconut milk”*

The relevant text under the Heading 04.1.2.8 makes clear that the products covered by this application fall under this heading:

*“Coconut milk and coconut cream are products prepared using a significant amount of separated, whole, disintegrated macerated or comminuted fresh endosperm (kernel) of coconut palm and expelled, where most filterable fibers and residues are excluded, with or without coconut water, and/or with additional water. Coconut milk and coconut cream are treated by heat pasteurization, sterilization or ultrahigh temperature (UHT) processes. Coconut milk and coconut cream may also be produced in concentrated or skim (or “light”) forms.”*

Given the use of canned coconut milk products as a cooking ingredient, classification as a fruit product under ‘Heading 4 – Fruits and Vegetables’ in line with Codex is appropriate.

Classifying canned coconut milk products to the appropriate heading in Schedule 15 is highly critical because the additive permissions differ between the headings.

Sub-heading “14.1.2.1 - Fruit and vegetable juice” does not permit the addition of GMP additives except where the juices are “separated by other than mechanical means only”. As the canned coconut milk product does not meet that exception, if classified under this sub-heading, GMP additives that are added in line with the Codex standard would not be permitted.

By way of contrast, the sub-headings under Heading 4 – Fruits and Vegetables both permit the addition of GMP additives.

The ambiguity in how these goods are classified under the Food Standards Code may lead to an interpretation of the Code that would hold that additives permitted under Codex and used in canned coconut milk products elsewhere may not be permitted in Australia and New Zealand. Such an interpretation would severely disrupt trade; remove safe food from the Australian market; severely curtail the availability of canned coconut milk products in the Australian and New Zealand markets; and increase the costs to consumers as producers would have to re-adjust formulations or cease supply.



Aligning the Code with Codex would remove any doubt about the legitimacy of the use of the relevant necessary additives and ensure continued trade in these products.

**(b) Advantages and disadvantages of proposed change over the status quo**

The advantage of the proposed change is that alignment with Codex standards removes any ambiguity or confusion over the additives permissions for canned coconut milk products in the Food Standards Code. This will enable trade across a wide range of coconut milk products, that use Codex permitted additives, to continue without concern about possible regulatory impediment.

There is no question about the safety of these additives as they are widely used and many are permitted as additives per Good Manufacturing Practices in many processed foods in Australia and New Zealand.

The applicant does not believe that there are any disadvantages from the application. There are no additional costs for any party and trade will continue unimpeded.

**(c) Status of similar applications made in other countries**

The applicant is not making similar applications in other countries as the Codex provisions are accepted internationally.

The applicant is not aware of any similar applications.

***D.1 Regulatory Impact Information***

***D.1.1 Costs and benefits of the application***

**(a) Cost and benefits to consumers**

The application imposes no costs on consumers. The necessary Codex additives are currently present in coconut milk products and the application does not seek permission for new additives. What the application does seek to remove is any ambiguity or confusion about the proper classification of canned coconut milk products in Schedule 15 – Substances that may be used as food additives.

The benefits to consumers are continued availability of the current wide range of canned coconut milk products for use as ingredients in cooking. If the application is unsuccessful there will be a restricted choice of products and restricted supply; putting pressure on prices to rise.

**(b) Cost and benefits to industry and business in general**

There are no costs on industry that flow from this application. It does seek to impose restrictions on the production of these goods. Industry benefits through the clear understanding that the necessary additives are permitted in Australia and New Zealand.



There would be costs to industry if the ambiguity is not removed as canned coconut milk products may be found non-compliant with the Australia New Zealand Food Standards Code because of the presence of additives permitted by Codex. It is difficult to quantify costs as this application aims to forestall this occurrence. Apart from the loss of consignments found to be non-compliant, businesses would be forced to seek alternative formulations or production processes at greater cost to stay in the Australian market. The other option would be for canned coconut milk products to exit the market.

(c) Costs and benefits to government

The application does not impose costs on government.

The application provides benefits to government. The removal of any ambiguity will assist in achieving a consistent approach to the way food regulations are implemented, interpreted and enforced across jurisdictions. In addition, the application promotes consistency between domestic and international food regulatory measures without reducing the safeguards applying to public health and consumer protection.

**D.1.2 Impact on international trade**

The application benefits international trade by making clear that current imports of canned coconut milk products are compliant with the Food Standards Code. This would remove any uncertainty about the legality of the products and allow trade to continue without any change.

**E INFORMATION TO SUPPORT THE APPLICATION**

(a) Public health and safety

The applicant considers that approval of this application would be consistent with FSANZ's obligation to protect public health and safety.

The Codex standard additives have been evaluated as safe by the Joint Expert Committee of Food Additives (JECFA) and are also already permitted as food additives in a wide range of processed foods in Australia.

(b) Consumer choice

The applicant believes that the approval of this application would be consistent with FSANZ's obligation to ensure the provision of adequate information relating to food to enable consumers to make informed choices, and prevent misleading or deceptive conduct.

Any additive that may be present in the canned coconut products is already being declared on the label of the product. Approval of the application will not affect the requirement under *Standard 1.2.4 Information requirements – statement of ingredients* to list each ingredient, including additives, in a food for sale. Consumers will continue to be informed about the presence of additives.

(c) International food standards



The application promotes consistency between Australian and recognised international food standards.

## F ASSESSMENT PROCEDURE

This is an unpaid application.

The applicant's view is that the appropriate assessment procedure is **General Procedure, Level 1**.

The application seeks clarification of the classification of a food for the purposes of Schedule 15 and so, the use of additives that are already permitted for use in Australia. There is no new evidence of concern that has warranted a recent evaluation of those Codex additives.

The application therefore is likely to:

- involve an assessment of the risk to public health and safety of less than average complexity;
- have a limited or no social or economic impact;
- require a toxicological; nutritional; food technology; dietary modelling; or microbiological assessment of less than average complexity;
- require an assessment of risk management measures of less than average complexity; and
- involve the development of no more than a basic community communications strategy to address public concern.

## G CONFIDENTIAL COMMERCIAL INFORMATION (CCI)

There is no confidential commercial information (CCI) in the application.

## H OTHER CONFIDENTIAL INFORMATION

There is no non-CCI that is to be treated as confidential.

## I EXCLUSIVE CAPTURABLE COMMERCIAL BENEFIT (ECCB)

There is no exclusive capturable commercial benefit flowing from the application. The application makes no change to what are already well-established practices. The approval of the application would apply to all importers of canned coconut milk products.

## J INTERNATIONAL AND OTHER NATIONAL STANDARDS

### J.1 Codex Alimentarius

Packaged coconut milk and coconut cream products are covered by two Codex standards:



(1) *Codex Standard for Aqueous Coconut Products – Coconut Milk and Coconut Cream (Codex Stan 240-2003)*, and

(2) *Codex General Standard for Food Additives*" (GSFA, Codex STAN 192-1995).

## J.2 Other national standards

The jurisdictions that regulate the production of canned coconut milk products recognise the Codex standards and permit the use of the additives set out in *Codex Standard for Aqueous Coconut Products – Coconut Milk and Coconut Cream (Codex Stan 240-2003)*.

The issue that has given rise to this application has not arisen in other non-producing countries.

March 14, 2017