



WHITEBOOK 2016

**TRADE/INVESTMENT ISSUES
& RECOMMENDATIONS**

8th edition

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CHAPTER 16 NUTRITION AND MILK FORMULA PRODUCTS

OVERVIEW

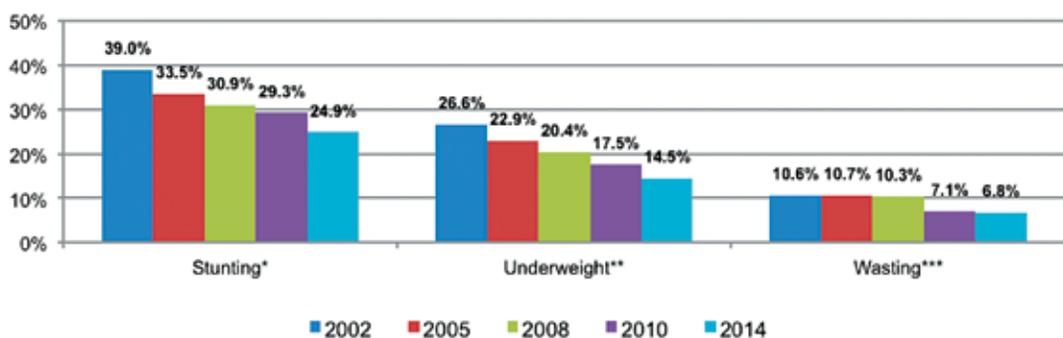
The EuroCham Nutritional Foods Group (NFG) is the non-profit, non-Governmental representative body of six of the world's leading multi-national dairy companies operating in Vietnam. NFG's mission is to improve the nutritional well-being of the Vietnamese people. Together with the Government, NGOs, and civil society partners, we work to make a positive impact on Vietnam's nutritional profile.

NFG members continuously work with key stakeholders in the Vietnamese Government to promote science-based nutrition and develop effective policies and practices that ensure that Vietnamese consumers have access to quality nutritional and milk formula products. NFG members are committed to upholding international industry best practices and complying with relevant Vietnamese laws and regulations to cultivate a responsible and sustainable market for milk and nutritional products in Vietnam. NFG strives for the following objectives:

1. Promotion of science-based nutrition knowledge and development of effective policies and practices on safe nutrition for Vietnamese consumers;
2. Promotion of highest food quality standards;
3. Fostering of robust business ethics in the dairy and nutrition sector through observation of strict and comprehensive self-regulation policies;
4. Contribution to the development of science-based regulations governing the industry; and
5. Participation in open discussions with the Government and relevant stakeholders to facilitate broad-based industry support for efforts to improve nutritional outcomes for the Vietnamese people.

Our presence and products have substantially and directly contributed to Vietnam's continued socio-economic development and have helped empower Vietnam to meet - and even exceed - most of the goals set out in the 2001-2010 National Nutrition Strategy.

Figure 12: Malnutrition prevalence among children under five (%)



Source: Summary Report: General Nutrition Survey 2009-2010, National Institute of Nutrition – Ministry of Health in cooperation with UNICEF; Statistical data on Child malnutrition in 2014, National Institute of Nutrition.¹

¹ Summary Report: General Nutrition Survey 2009-2010, National Institute of Nutrition – Ministry of Health in cooperation with UNICEF; Statistical data on Child malnutrition in 2014, National Institute of Nutrition

* Stunting refers to inadequate height for age as defined by the World Health Organisation (WHO)

** Underweight refers to inadequate weight for age as defined by the WHO

***Wasting refers to acute under nutrition (children who suffer from this face a markedly increased risk of death) as defined by the WHO

In the past 3 years alone, we have carried out over 20 Corporate Social Responsibility (CSR) and philanthropic programs of varying sizes across the country. Our contributions can be detailed as follows:

- ▶ Fostering of economic growth and employment – We have invested hundreds of millions of dollars in manufacturing and distribution in Vietnam. As of today, NFG members together provide direct full-time employment for over 8,000 people in Vietnam, as well as job opportunities to tens of thousands of additional Vietnamese workers and professionals through our distribution network of over 50,000 retailers across the country;
- ▶ Promotion of nutritional education – Between 2013 and present, NFG members have partnered with the National Institute of Nutrition, the Ministry of Education and Training, primary schools and other state agencies and organisations to improve the nutrition knowledge of over 15,000 children and their families;
- ▶ Capacity-building for the healthcare systems – NFG members have worked alongside the Ministry of Health and other Vietnamese healthcare stakeholders to provide trainings and capacity-building activities for nearly 3,000 healthcare professionals and nutrition experts on the topics of breastfeeding, clinical nutrition and congenital metabolic disorders. Furthermore, together with the Vietnam’s Women’s Union, we have distributed educational materials and engaged more than 150,000 people to provide essential breastfeeding information;
- ▶ Improved income and capacity-building for farmers – To support Vietnam’s agricultural sector and help it achieve sustainable development, NFG members have provided assistance to poor farmers by donating pedigree cows to Vietnam Red Cross’ Cow Bank project as well as provided trainings and high-yielding coffee varieties subsidies to over 21,000 coffee farmers in the Central Highlands; and
- ▶ Support for underprivileged children – Between 2013 and now, NFG member countries have donated more than 500,000 milk gifts to over 100,000 underprivileged Vietnamese children. We have also sponsored computer rooms for over 10 primary schools in 5 provinces, and led fundraising for tuition fees and annual medical insurance premiums. Through our medical and health programs, NFG has been able to save the lives of over 100 infants with congenital metabolic disorders.

We look forward to continuing our discussions with the Ministry of Health (MOH) and other related stakeholders to continue to build on the progress that has already been made in the battle against childhood malnutrition in Vietnam. NFG will continue partnering with relevant Government agencies and NGOs to carry out research, training programs for healthcare professionals, local health propagandists, as well as awareness-raising activities for mothers and caregivers on the optimal nutritional diet for their children.

I. IMPROVING THE IMPLEMENTATION OF REGULATIONS ON MARKETING FOR NUTRITIONAL PRODUCTS FOR YOUNG CHILDREN

Relevant Ministries: Ministry of Health (MOH)

Issue description

Since the year 2000, the Vietnamese Government has issued and amended many legal regulations concerning the advertisement and marketing of nutritional products for young children. Specifically, the Law on Advertisement of 2012 and Decree 100/2014/ND-CP on 6 November 2014 (Decree 100) regulating the trade and use of nutritional products for young children, feeding bottles and artificial dummies have extended the advertising ban on 'breast-milk substitute milk products' for children up to 24 months of age. It has also introduced more restrictions on the advertisement and marketing for nutritional products for young children, potentially limiting access to information by parents and caregivers.²

² See Article 6 and Article 11.b of Decree 100

Potential gains/concerns for Vietnam

Responsible marketing and distribution practices enable consumers, health workers and the wider public to obtain accurate, science-based information. They also support parents' decisions to choose nutritious and healthy foods for their children and promote safe and appropriate use of nutritional products for infants who are not exclusively breastfed.

While Decree 100 is aimed at strengthening constructive management of the industry, it has had several unintended consequences that could disadvantage consumers. For instance, with regards to breast-milk substitute milk products, basic information (information to which consumers are entitled) has sometimes been categorised as advertisement and has not been made available for consumer reference on the traders' websites. Because of the lack of basic product information, Vietnamese consumers have few other official sources of information through which to assess product quality and learn about usage instructions.

NFG member companies are committed to satisfying in full both local and international regulations regarding responsible marketing practices, including the International Code of Marketing of Breast-milk Substitutes adopted by the World Health Organisation. NFG's efforts are underpinned by our own Code of Conduct, which was originally issued in 2012.³ NFG updated its Code of Conduct and compliance practices when Decree 100 was promulgated on 6 November 2014 to replace the previous Decree 21/2006/ND-CP with effect from 1 March 2015.

NFG has played a constructive role in industry self-regulation and compliance. Through the NFG Code of Conduct, member companies have cross-monitored and encouraged each other to comply with local regulations via the internal self-regulatory mechanism. Experience from the past 3 years has shown that the Code of Conduct has played a significant role in promoting responsible business and marketing practices by member companies. The Code of Conduct has brought about encouraging results and has helped raise awareness and understanding among member companies of relevant regulations and policies governing the industry.

Recommendations

NFG members would like to propose the following:

- We encourage industry-wide adoption of best practices along the example provided by our own Code of Conduct and compliance standards.
- Competent Government agencies should closely monitor the trajectory of malnutrition among infants and young children to ensure that the implementation of Decree 100 is effective and does not generate negative impacts as a result of restrictions of essential product information.
- In order to strengthen access to basic product information, relevant Government agencies should develop and facilitate an official information channel to ensure that pertinent official product information, including data on quality and usage instructions, is available to consumers and does not violate advertising rules.

II. PRICE STABILISATION OF MILK PRODUCTS FOR CHILDREN UNDER 6 YEARS OF AGE

Relevant Ministries: Ministry of Finance (MOF)

Issue description

Since the year 2010, the Vietnamese Government has issued many legal regulations meant to control market prices. Most recently, the Ministry of Finance issued Decision 1079/QD-BTC dated 20 May 2014 detailing the imposition of price stabilisation measures for milk products for children under 6 years of age (Decision 1079). The measures were

³ 'EuroCham Nutritional Foods Group Sector Committee', *EuroCham*, 2015. Available at <http://www.eurochamvn.org/Sector_Committees/Nutritional_Foods_Group>

prolonged for further 18 months through Decision 857/QĐ-BTC dated 12 May 2015 amending and supplementing some articles of Decision 1079. According to these two Decisions, price ceilings will be imposed on milk products for children under 6 years old from 1 June 2014 through 31 December 2016 inclusive.

Potential gains/concerns for Vietnam

The State's interventions in the business activities of enterprises through administrative measures such as price ceilings run counter to the Government's aspirations to achieve a full market economy. We are concerned that such measures not only impact the business performance of enterprises in the short- to medium-term, but also affect long-term trade and investment prospects in general. The Government's interference in the business decisions of enterprises sends a negative signal to investors that Vietnam's investment climate is not genuinely stable, open or integrated.

Such interference also has negative commercial effects on the industry. According to data released by market research company AC Nielsen in July 2015, the market for formula milk for children under 6 years old has decreased by 11% in volume in the twelve months after Decision 1079 was implemented.⁴ This might have been caused by the negative psychological impact that the price ceilings have had on consumers' behaviour. Furthermore, up to 60% of the public report having experienced moderate to no benefit from the price intervention measures introduced by the State.⁵ This, together with the actual modest rise in prices of economy-tier products since the imposition of price controls, suggests that price ceiling intervention may have failed in its stated humanitarian objective of lowering prices for needy consumers. While the National Nutrition Strategy considers milk products to be important, and encourages their use to improve the nutrition status of Vietnamese children, the observed 11% decline in powdered milk volume sales means that Vietnamese children are drinking less milk overall and thus getting fewer nutrients. This will have a negative future impact on the National Nutrition goals for improving Vietnamese children's health status.

There are now more than 700 different products across three distinct segments (premium, mid-tier, and economy); this product grouping offers an incredibly diverse selection of products to meet the equally diverse needs of Vietnamese consumers. According to AC Nielsen in July 2015, the average price of formula products in Vietnam's premium segment were in line with the average price levels of premium products in countries with comparable economic conditions and market characteristics in the region, such as Malaysia, Thailand and the Philippines (with Vietnamese prices differing by around 1%).

Recommendations

NFG members would like to make the following recommendations:

- ▶ Allow for a return to market-based pricing and refrain from imposing any extensions of existing price ceilings or additional controls.
- ▶ Clarify the objectives as well as the intended beneficiaries of the State's price stabilisation measures.
- ▶ Revise and clarify unclear and inconsistent provisions in the Law on Pricing and implementation documents including the circumstances under which price stabilisation measures should be imposed ('unreasonably high or low due to changes of price constituents') so that the State's intervention in market mechanisms be adequately justified.
- ▶ When necessary, impose price stabilisation measures over a restricted period of time and only on essential products that 'meet the basic needs of the people' as stipulated in the Law on Pricing. With regards to the milk formula market, the Government should not control the prices of products in the mid-tier and premium segments, but should only impose price stabilisation measures on the economy segment to improve access to these products by low income consumers.

⁴ 'Cơ hội cho ngành hàng sữa bột tăng trưởng tại nông thôn', *Nielsen*, 26/07/2015. Available at <<http://www.nielsen.com/vn/vi/insights/2015/milk-powder-decrease-july-15.html>> and 'Powdered milk sales fall in major cities', *The Saigon Times*, 24/07/2015. Available at <<http://english.thesaigontimes.vn/42096/Powdered-milk-sales-fall-in-major-cities.html>>

⁵ Report 'Vietnam in Transition: Changing Attitudes to the Market and the State: Perception of a Number of Vietnamese People in 2014' jointly issued by the *Vietnam Chamber of Commerce and Industry and the World Bank* and released in July 2015, p.35 figure 16.

- › Consider lowering price-composing factors such as import tariffs (currently at 5% for imports from ASEAN and 10% for other countries, higher than in other regional countries) and VAT rates as solutions to help reduce the prices of formula products for children under 6 years old; and
- › Ensure precise and consistent enforcement of the Law on Pricing and its sub-law documents by State authorities, particularly in regards to provisions governing circumstances where price stabilisation measures are needed⁶ and on the methods of price determination for goods subject to price stabilisation measures.⁷

III. QUANTITATIVE CONFORMITY STAMP

Relevant Ministries: Ministry of Science and Technology (MOST)

Issue description

Law No. 04/2011/QH13 on Measurement, which became effective on 1 July 2012, mandates that 'Group 2' pre-packaged goods bear the quantitative conformity stamp on their labels.⁸ Despite the petitions from relevant industries, the requirement was later on solidified in the MOST's Circular No. 28/2013/TT-BKHHCN dated 17 December 2013 regulating the State inspection of measurement (Circular 28) and most recently, in the MOST's Circular No. 21/2014/TT-BKHHCN (Circular 21) dated 15 July 2014 regulating the measurement for pre-packaged products.

Dairy products, which are already required to bear several stamps, including the Conformity Registration (CR) stipulated by the Law on Quality of Goods and Products⁹ may now be required to bear one more stamp - the quantitative conformity stamp.

Potential gains/concerns for Vietnam

New product stamp requirements reflect a shift from a 'post-control' mechanism to a 'pre-control' mechanism under which companies must follow a complicated procedure just to certify with relevant authorities that their packaging machine is working correctly or to re-check the weight of imported products.

These stamp regulations increase costs and expenses and create additional administrative burden for companies. Furthermore, for imported products, it will take an additional 10 days to check the quantity before customs clearance, slowing down the pace of cross-border commerce.

One industry example is in the dairy sector: for imported dairy products, importers need to take samples for three checks:

- › Food safety check with the relevant authorities under the MOH;
- › Veterinary check with the relevant authorities under the Ministry of Agriculture and Rural Development (MARD); and
- › As of August 2014, a quantitative check with the relevant authorities under the MOST.

This procedural costs are burdensome in terms of time (seven days for the food safety check¹⁰, five days for the veterinary check¹¹, and ten days for the quantitative check¹²) and money (these checks delay the circulation of the products - time is particularly crucial to ensure the quality of dairy products).

⁶ Article 16, Law on Pricing dated 20 June 2012, and Article 4, Decree 177/2013/NĐ-CP dated 14 November 2013 of the Government

⁷ Circular 25/2014/TT-BTC dated 17 February 2014 of the Ministry of Finance

⁸ Article 39.2.d, Law on Measurement dated 11 November 2011

⁹ Article 27.1.b, Law on Quality of Goods and Products dated 21 November 2007

¹⁰ Decision 23/2007/QĐ-BYT dated 29 March 2007 of the Ministry of Health

¹¹ Decision 86/2005/QĐ-BNN dated 26 December 2005 of the Ministry of Agriculture and Rural Development

¹² Circular 28/2013/TT-BKHHCN dated 17 December 2013 of the Ministry of Science & Technology

Recommendations

- › In order to maintain a simple administrative procedure and a sustainable business environment for companies in Vietnam, it would be helpful if the authorities would either limit the aforementioned procedures to a minimum or limit the list of products on which quantitative conformity stamps are compulsory (so-called 'Group 2 products').
- › The Government should consider simplifying and synchronising the requirements regarding measurement to move back toward a 'post control' approach to regulation, in which companies violating relevant provisions shall face a corresponding penalty.
- › The Government should also consider accepting the quantitative stamps for imported products which have been admitted by foreign countries.
- › The EuroCham NFG would be happy to share its experience/views/best practice with the relevant authorities to achieve the best outcome for both the industry and the Vietnamese Government.

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