



# WHITEBOOK 2015

**TRADE/INVESTMENT ISSUES  
& RECOMMENDATIONS**

## CHAPTER 3.8 NUTRITION FOR INFANTS AND TODDLERS

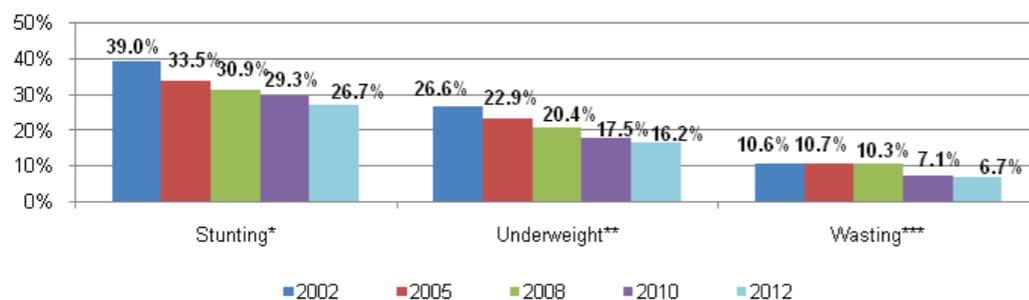
### 3.8.1 Overview

The EuroCham Nutritional Foods Group (NFG) comprises leading multi-national dairy companies that formed the NFG with the following objectives:

1. Promote science-based nutrition and develop effective policies and practices on safe nutrition for infants, toddlers and mothers in Vietnam;
2. Promote the highest standard of food quality in Vietnam;
3. Foster high business ethics by continuing the self-regulating policy;
4. Contribute to the development of science-based regulations governing the industry;
5. Disseminate accurate information on pediatric nutrition and develop understandings on matters relating to the industry; and
6. Facilitate open discussions with and support the Government, other stakeholders and society in their efforts to improve the nutrition for infants, toddlers and mothers.

Over the last two decades, together with nationwide efforts by the Vietnamese Government, health professionals and establishments, specialised NGOs, and the nutrition industry, the NFG members have played a significant role in bringing about tangible successes and improvements in Vietnam's nutritional conditions. The Prime Minister's National Nutrition Strategy (NNS) 2011-2020 with a vision towards 2030 clearly states that: 'Vietnam has shown remarkable achievement in improving the health and nutritional status of the population. The majority of the objectives from the National Nutrition Strategy for the period of 2001-2010 have been met or exceeded. Nutrition knowledge and practices in the population have been remarkably improved. The prevalence of malnutrition in children under five years old has continuously and sustainably decreased<sup>[1]</sup>.'

**Table 6 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

\*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

Aside from the positive health impact of our quality products and our educational and awareness-

building efforts focused on nutrition for infants, toddlers and mothers, NFG members have also made a noteworthy contribution to Vietnam through substantial investment, employment, transfer of international industry know-how and best practices, and numerous Corporate Social Responsibility (CSR) and philanthropic initiatives. Collectively, NFG members contribute to Vietnam's development through:

- **Investment and employment:** We have been investing hundreds of millions of dollars in manufacturing, distribution, and various industry and sector-wide development projects. NFG members together provide direct full-time employment for over 8,000 workers, executives and staff in Vietnam, as well as indirect employment to tens of thousands of additional Vietnamese workers and professionals through our distributors and manufacturers;
- **Education:** Partnering with leading Vietnamese organisations like the Youth Physicians Association, the Ho Chi Minh City Medical University, and Provincial Education and Training departments across Vietnam, NFG members participate in the construction of schools and other educational facilities for children; provide sponsorships and scholarships to medical schools and other educational institutions; and provide hundreds of thousands of dollars in support of under-privileged schools and community groups; and
- **Health:** NFG members work with partners like the Ministry of Health, Vietnam Nutrition Association, National Institute of Nutrition, Vietnam Oncology Association, Red Cross Vietnam, etc. to provide nutrition and health support for thousands of Vietnamese orphanages and under-privileged children. We provide training and sponsorships for thousands of Vietnamese health workers, and funding for national health programmes that provide free surgical procedures and medical care for poor patients throughout Vietnam.

As we continue to pursue the above-mentioned objectives, we look forward to having better cooperation and partnership with the Government, Non-Governmental Organisations (NGOs) and other stakeholders. At the same time, we would like to have more open dialogues with the Government and other related parties to encourage evidence-based policies and practices that will best improve health and nutritional outcomes for mothers and children, as well as to address several issues that cause negative impacts on the industry.

### 3.8.2 Partnership Project to Improve Children's Health and Nutrition

Relevant Ministry: Ministry of Health (MOH)

#### Description

It is important to emphasise that NFG member companies, the Government, international organisations, health NGOs, and health experts are all working towards one common goal of improving nutrition and health for infants and toddlers in Vietnam. With this common goal, we believe that our open collaboration and partnership with the Government, NGOs, and other stakeholders is vital to maximise nutritional outcomes for infants and toddlers, and address the issue of malnutrition.

#### Recommendations

We would like to look forward to setting up a Public Private dialogue project with the MOH and other related stakeholders to address the root causes of malnutrition of the children from six months to three years of age to provide a timely intervention.

[1] See the National Nutrition Strategy 2011-2020, as approved by the Prime Minister's Decision No. 226/QĐ-TTg dated 22 February 2012.

### 3.8.3 Public-Private Dialogue Forum for Compliance in Marketing Infant and Follow-Up Formulas

Relevant Ministry: Ministry of Health (MOH)

#### Description

In the year 2000, the Vietnamese Government had issued Decree 74/2000/ND-CP to prohibit advertising for breast milk substitutes for children from zero to six months of age [Decree 74]<sup>[2]</sup>, in line with the recommendation of the 1981 WHO Code<sup>[3]</sup>. After six years of implementation, the Government issued a new Decree 21/2006/ND-CP to replace Decree 74, which expanded the advertising prohibition of infant formula for children from zero to 12 months of age [Decree 21]<sup>[4]</sup>. In 2012, the National Assembly passed the Law on Advertising to ban advertising of 'milk for breast milk substitute' for children from zero to 24 months of age<sup>[5]</sup> and we have learnt that the Government will soon issue a new Decree to replace Decree 21 with more restrictions on marketing nutritional food products for children.

In order to implement the new Decree effectively, achieve the Government's objective to promote breast-feeding, ensure consumers' rights to access to information, as well as maintain a good business environment for the industry, we believe that it would be essential to have more efficient and active dialogues among these stakeholders. In addition, the introduction of a Code of Conduct and a self-regulation mechanism for the whole industry would also play an important role in ensuring all companies' full compliance with the new Decree.

#### Recommendations

NFG members would like to propose the following:

- Set up a forum in the form of a Public Private dialogue, consisting of representatives of the MOH, consumers, EuroCham NFG and Vietnam Dairy Association to build an effective dialogue channel. We believe that a model similar to the partnership between the Vietnam Business Forum and the General Department of Customs is a good example for the first step.
- Set up a Public-Private dialogue working group to build a Code of Conduct for the whole industry to ensure a fair play ground for all. The Code of Conduct would also be a basis for self-regulation on which member companies can monitor and request each other to comply with the regulations.

The EuroCham NFG would be happy to share its experience/views/best practices with the relevant authorities so as to achieve the best outcome for both the Government and the industry.

[2] Article 8.1, Decree 74/2000/ND-CP dated 6 December 2000

[3] International Code of Marketing of Breast-milk Substitutes, World Health Organisation, 1981

[4] Article 6.1, Decree 21/2006/ND-CP dated 27 February 2006

[5] Article 7.4, Law No 16/2012/QH13 on Advertising of 21 June 2012.

### 3.8.4 Law on Pricing (No.11/2012/QH13)

Relevant Ministry: Ministry of Finance (MOF)

#### Issue description

From 2010 to 2014, the Vietnamese Government issued a series of legal documents to control the market price:

- Circular 122/2010/TT-BTC dated 12 August 2010 on price registration;
- Circular 154/2010/TT-BTC dated 01 October 2010 on pricing regulation;
- Law on Pricing dated 20 June 2012;
- Decree 109/2013/ND-CP dated 24 September 2013 on the administrative sanctions in price;
- Decree 177/2013/ND-CP dated 14 November 2013 providing guidelines on the application of the Law on Pricing;
- Circular 25/2014/TT-BTC dated 17 February 2014 regulating common methods of pricing goods and services (Circular 25);
- Circular 56/2014/TT-BTC dated 28 April 2014 providing guidelines for Decree 177/2013/ND-CP and especially; and
- Decision 1079/QĐ-BTC detailing price ceilings to be applied to milk products for children under six years of age, dated 20 May 2014 (Decision 1079).

None of these legal documents, in our opinion, give clear and convincing criteria to identify goods and services whose prices need to be stabilised, nor do they lay down clear and transparent criteria for when price registration/notification is to be applied.

We are concerned that the ceiling prices that are being applied following Decision 1079 have not been determined based on principles and legal grounds consistent with existing Vietnamese Law, including Article 20 and Article 21.1 of the Law on Pricing<sup>[6]</sup> and Articles 3 and 4 of Circular 25 on the general pricing methodology. These regulations require the Government to fairly base price determinations on input costs, quality, expected profits, supply and demand, domestic and international market prices, and competitive dynamics, among other market factors.

#### Potential gains/concerns for Vietnam

A series of legal documents were intended to narrow down the manner and scope of State intervention and to better align business pricing decisions with the market mechanism. However, the unclear regulation has caused the non-evidence based intervention in competitive-markets. Such intervention not only impacts the businesses' ability to operate competitively but also could affect trade and investment in general. This is because enterprises are more likely to invest when there is a reliable and consistent pricing framework that lends support to market forces and ensures businesses can cover costs and achieve a reasonable return.

#### Recommendations

We would like to make the following recommendations:

- Encourage free market practices in Vietnam as there are enough brands across various price points in Vietnam to suit the needs of consumers;
- Return to market pricing for milk products by 31 May 2015 as stated in Decision 1079, and

[6] Price Law, Article 21.1: Bases for price determination:

- a) Full cost price, quality of goods and services at the time of price determination, expected profit;
- b) Demand and supply in the market of goods and services, purchasing power of currency, the payable ability of consumers;
- c) Domestic price, global price and competitiveness of goods and service at the time of price determination.

provide a clear and detailed instruction to the industry about this, ensuring the price declaration process is respected;

- Clarify what price stabilisation means and how it is measured, by adopting a legal definition of the general criteria for price stabilisation by the State such as ‘unreasonably high or low due to changes of price constituents’, and replace such general criteria by clear and comprehensive criteria; and
- Ensure the precise and consistent enforcement of the Law on Pricing and its implementing Decrees by local authorities.

### 3.8.5 Quantitative Conformity Stamp

Relevant Ministry: Ministry of Science and Technology (MOST)

#### Issue description

Law No. 04/2011/QH13 on Measurement which became effective on 1 July 2012, mentions the quantitative conformity stamp on pre-packaged goods<sup>[7]</sup>. With respect to dairy products, besides the Conformity Registration (CR) stamp that needs to be printed on the label according to the Law on Quality of Goods and Products<sup>[8]</sup>, now the product may have to bear one more new stamp, which is the quantitative conformity stamp.

Despite the petitions from relevant industries, on 17 December 2013 the MOST issued Circular No. 28/2013/TT-BKHHCN regulating the State checking on measurement (Circular 28). Consecutively, on 15 July 2014, the MOST has issued Circular No. 21/2014/TT-BKHHCN (Circular 21) regulating the measurement for pre-packaged products and setting the requirements for companies using quantitative conformity stamp as follows:

1. Incorporated in accordance with the laws;
2. Have sufficient measurement equipments as follows:
  - a. Have sufficient equipment to measure pre-packaged goods, measurement equipment to self-checking the quantitative compliance of pre-packaged goods (in case of self-checking), measurement equipment is subject to the periodic checking adjusting as regulated by laws.
  - b. Have a sufficient working area, environmental conditions and other conditions as stipulated in Point 4 of this Article.
3. Have a sufficient number of technician to implement the measurement control as stipulated in Point 4 of this Article.
4. Promulgate and implement the measurement control on measurement equipment, quantitative equipment, implement the measurement formula to ensure the compliance with technical standards on measurement for pre-packaged products.
5. Duly filing all inspection results, equipment adjustment result, dossier of technical evaluation for measuring pre-packaged products.<sup>[9]</sup>

In addition, Circular 28 provides that:

*‘The Customs Office only clear the imported pre-packaged products after receiving the notice on the result of state checking on measurement with the confirmation “Conform*

[7] Article 3.13, Law on Measurement dated 11 November 2011

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

[9] Article 10, Circular 21/2014/TT-BKHHCN dated 15 July 2014 of the Ministry of Science & Technology

*with technical measurement” issued by the checking authority to the importer.[10]*

The new stamp on products is a step back from a ‘post-control’ mechanism to a ‘pre-control’ mechanism under which companies must follow a complicated procedure just to certify with relevant authority that their packing machine is working correctly or just re-check the weight of imported products.

#### Potential gains/concerns for Vietnam

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 so-called ‘Group 2 products’. Not only does a new stamp on the label of products increase costs and expenses, but the adding of such a stamp on the label creates an administrative burden for companies. Furthermore, for imported products, it will take an additional 10 days to check the quantity before customs clearance.

One example related to dairy products, for which an importer needs to take samples for three checks:

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

This procedure costs a lot of time (seven days for the food safety check<sup>[11]</sup>, five days for the veterinary check<sup>[12]</sup>, and ten days for the quantitative check<sup>[13]</sup>) and delays the circulation of the products when time is particularly crucial to ensure the quality of dairy products.

#### Recommendations

Simplify and synchronise the requirements on measurement to operate on a ‘post control’ basis, in which companies violating relevant provisions shall face a corresponding penalty. This could be adjusted by a new joint Circular from the three relevant ministries (the MOH, the MARD and the MOST), to place all checks under one independent agency to ensure the ‘one-door, one stamp’ mechanism.

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 Government.

[10] Article 10.3.a, Circular 28/2013/TT-BKHHCN dated 17 December 2013 of the Ministry of Science & Technology

[11] Decision 23/2007/QĐ-BYT dated 29 March 2007 of the Ministry of Health

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

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