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Trade Concerns on Third Amendment to Legal Metrology Rules 2011

Report Categories:

Sanitary/Phytosanitary/Food Safety

FAIRS Subject Report

Trade Policy Monitoring

Exporter Guide

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Report Highlights:

On October 24, 2011, Department of Consumer Affairs of the Government of India via [notification 784 \(E\)](#) in the Indian *Official Gazette* amended the [Legal Metrology \(packaged commodities\) rules, 2011](#). This was the third amendment to these rules. The notification neither invited comments, nor has been notified to the WTO. The amended Legal Metrology (packaged commodities) rules, 2011 will come into force on July 1, 2012 (see GAIN [IN2038](#)). The amendment raised concerns among Indian food industry groups. The Indian food industry believes that the amendment, if implemented, will be a significant barrier to trade.

General Information:

Background:

On October 24, 2011, Department of Consumer Affairs of the Government of India via [notification 784 \(E\)](#), in the Indian official gazette, amended the [Legal Metrology \(packaged commodities\) rules, 2011](#).

This was the third amendment to these rules. The notification neither invited comments, nor has been notified to the WTO. The amended Legal Metrology (packaged commodities) rules, 2011 will come into force on July 1, 2012 (see GAIN [IN2038](#)). The Indian food industry believes that the amendment, if implemented will be a significant barrier to trade.

Trade concerns on Third Amendment to Legal Metrology (packaged commodities) rules: The third amendment to the legal metrology (packaged commodities) rules, 2011 has raised concerns among Indian food industry groups like Federation of Indian Chambers of Commerce and Industries (FICCI), Confederation of Indian Industries (CII) and All India Food Processors Association (AIFPA).

The amendment to the Legal Metrology (packaged commodities) Rules, 2011 deletes the proviso to Rule 5 of these rules. The proviso to rule 5 permitted manufacturer to pack in any size relevant for consumers, with flexibility to suit demand and supply, while enabling technological innovation to make products available at affordable prices. In other words, the proviso permitted non- standardized packaging of around 18 commodities listed in schedule II of these rules. These commodities include: baby food, weaning food, biscuits, bread, un-canned packages of butter and margarine, cereals and pulses, tea, and materials which may be constituted or reconstituted as beverages. The Indian industry/importers believe that deletion of the proviso will take away the flexibility presently available to pack 18 commodities in denominations other than those specified in the Schedule II of these rules. The industry also believes that banning non standard size packs for these commodities would be against the consumer's interest. Switching back to standard packs means that consumer will have to buy the product in undesirable quantities. Furthermore, the industry expects huge losses in terms of changing production and packing lines, packaging material, etc. to switch over to the standard pack size. The inflexibility of pack size will also limit innovation.

Implication for Indian food imports: The United States, European countries, Canada, and Australia have no specific standard pack size. If the amendment to the LM rules is implemented, products from these countries are very likely to come to the attention of the Ministry of Consumer Affairs. This unfavorable environment will negatively affect trade in terms of value and volume as well.

Other concerns about imported food products: There are other concerns related to the Legal Metrology Act. The Legal Metrology (packaged commodities) Rules, 2011 do not allow the use of

stickers to provide information, except a revised lower Maximum Retail Price (MRP). However, the law provides that the labeling of the packaged food items will be governed by the [Food Safety and Standards \(packaging and labeling\) Regulations, 2011](#). According to the Food Safety and Standards Regulations (FSSR), 2011, veg/non veg logo, and name and address of the importer are considered 'rectifiable labeling deficiencies' which may be dealt with via sticker labels. Indian food importers wanted that the Food Safety and Standards Authority of India, which regulates the FSSR, to assure them that they will not be harassed on the basis of this mutual agreement between two laws (LM act and FSSR). However, to date the importers have not been assured of the same. There is a growing concern among the food importers' community that due to the absence of such an assurance from either of the ministries, they might face harassment on labeling requirements. These importers also believe that there is a lack of coordination between the state food safety commissioners and the port health officers. Sometimes, it is found that even after clearance at the port of entry, the product remains subject to the discretion of state food safety commissioner (after reaching warehouses in respective states) to be sold in the state.