Negative Brief: Baby Formula

By “Coach Vance” Trefethen

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Negative: Baby Formula

INHERENCY

1. Shortages have been solved

Increased domestic production & imports from Canada and New Zealand have solved the formula shortage

Dan Flynn 2022 (journalist) 8 Nov 2022 FOOD SAFETY NEWS "More capacity turning out to be the answer to the infant formula shortage" (accessed 7 Jan 2023) https://www.foodsafetynews.com/2022/11/more-capacity-turning-out-to-be-the-answer-to-the-infant-formula-shortage/

A decidedly supply-side solution is shaping up to solve the infant formula shortage that’s been plaguing the United States for the past eight months or so. Perhaps sooner, rather than later, the shortages are going to be erased when enough new capacity hits the market. The fact that it’s happening may have as much to do with the Biden administration’s recognizing that the shortages exist, which is prompting these market responses:   
— Grand Rapids-based Perrigo Company has committed $170 million to expand and strengthen its U.S. infant formula manufacturing to expand its supply of affordable infant formula. Its investment includes the purchase of Nestle’s Gateway infant formula plant in Eau Claire, WI, along with the U.S. and Canadian rights to the Good Start infant formula brand.  
— New Zealand’s a2 Milk Company has obtained FDA approvals to supply its a2 Platinum infant milk formula to the U.S market. It’s the first company to receive FDA authorization to sell its infant formula in the U.S. since July despite the continued shortage. The New Zealand company plans to sell 1 million cans or the equivalent of 30 million bottles through June 2023.  
— And last month, Abbott Nutrition’s Chairman and Chief Executive Officer, Robert Ford, committed his company to put up $500 million for a new infant formula manufacturing facility at a location yet to be determined.  
Such developments are likely to add new infant formula sources and capacity to make the shortages go away.

2. Imports aren't blocked

Imports under existing exceptions can continue through 2025

Zoe Han 2023 (journalist) MARKET WATCH 7 Jan 2023 " Imported baby formula is about to get expensive again, with tariffs back in place" (accessed 8 Jan 2023) https://www.marketwatch.com/story/imported-baby-formula-is-about-to-get-expensive-again-with-tariffs-back-in-place-11673102546

Under the guidance issued last September, the Department of Agriculture issued tariff exemptions to more than 10 manufacturers from abroad to market their regular formulas to the U.S. market, and to seven manufacturers for specialty formulas for infants with special medical needs, [according to the FDA](https://www.fda.gov/food/infant-formula-guidance-documents-regulatory-information/enforcement-discretion-manufacturers-increase-infant-formula-supplies). The manufacturers will have to meet full FDA’s requirements, which could take multiple rounds of testing and a long time, if they want to remain in the U.S market. If they pledge so, they can remain in the market through 2025 while working on compliance.

Exemptions to allow more imports are continuing until 2025, even after the Jan 6, 2023 time limit supposedly expired

Liz Essley Whyte , Jesse Newman , Kristina Peterson  2022. (journalists) 28 Dec 2022 Baby-formula imports to face tariffs again in 2023 (accessed 7 Jan 2023) https://www.foxbusiness.com/politics/baby-formula-imports-face-tariffs-again-2023

[Special exemptions for importing baby formula](https://www.foxbusiness.com/politics/fda-moving-to-allow-baby-formulas-intended-other-countries-used-us) are also set to expire on Jan. 6 unless companies pledge to work to meet full Food and Drug Administration requirements. If they do, they can stay in the U.S. market through 2025 while they work to comply with FDA rules. The FDA said some companies have set plans to work toward meeting U.S. standards.

3. Tariffs aren't a barrier

Tariffs don't block exports to the US. Example: Kendamil sending 6x increase in formula despite tariffs

Liz Essley Whyte , Jesse Newman , Kristina Peterson  2022. (journalists) 28 Dec 2022 Baby-formula imports to face tariffs again in 2023 (accessed 7 Jan 2023) https://www.foxbusiness.com/politics/baby-formula-imports-face-tariffs-again-2023

Formula maker Kendamil said it factored a return of the tariffs into its plans to send six times as much formula to the U.S. in 2023 than in 2022. Executives said the company would not raise prices commensurate with tariffs. "There’s no world in which we’ll be adjusting prices 20%," said Kendamil co-founder Will McMahon.

Tariffs easy to avoid: Set up production in the US. 3 companies are already doing it

Arohi Pathak, Marc Jarsulic and Osub Ahmed, Jill Rosenthal, Caroline Medina and Emily DiMatteo 2022. (All are with Center for American Progress: Pathak - Director, Policy. Jarsulic - Senior Fellow, Chief Economist. Ahmed - Associate Director, Women's Health & Rights. Rosenthal - Director, Public Health. Medina - Director. DiMatteo - Policy Analyst.) "The National Baby Formula Shortage and the Inequitable U.S. Food System" (accessed 7 Jan 2023) https://www.americanprogress.org/article/the-national-baby-formula-shortage-and-the-inequitable-u-s-food-system/

However, if tariffs are the obstacle, and there are profits to be made, more multinationals could follow the example of the three primary producers of formula in the United States—Reckitt Benckiser Group (United Kingdom-based owner of Mead-Johnson), Perrigo (based in Ireland), or Nestle (based in Switzerland)—and set up U.S. subsidiaries to avoid tariffs.

HARMS / SIGNIFICANCE

1. Shortage of brand choices, not shortage of food

(Jan. '23) Babies aren't starving: The lingering "shortage" is certain brands people are looking for, not lack of food

Zoe Han 2023 (journalist) MARKET WATCH 7 Jan 2023 " Imported baby formula is about to get expensive again, with tariffs back in place" (accessed 8 Jan 2023) https://www.marketwatch.com/story/imported-baby-formula-is-about-to-get-expensive-again-with-tariffs-back-in-place-11673102546

Parents in the U.S. still find it hard to find certain formula brands on shelves. A dietician for the federal government’s Special Supplemental Nutrition Program for Women, Infants and Children (WIC) [told a local Texas news station this week](https://www.kens5.com/article/money/consumer/baby-formula-shortage-san-antonio-texas/273-11888fa5-f927-4b74-a5e7-fa8a47753100) that parents continued having trouble finding their formula of choice, whether it be the size or brand that works for their kids.

"Can't find my brand" is not a crisis. Babies can easily switch to a different brand

Sally Kuzemchak, M.S., R.D. 2022 (medically reviewed by Dr Antwon Chavis MD) last updated 16 Dec 2022 "Severe Baby Formula Shortages Are Affecting Parents" (accessed 8 Jan 2023) https://www.parents.com/baby/feeding/formula/baby-formula-coronavirus-shortage/

If you can't find your usual brand, that's normally OK. Most babies can switch formula brands with no problems. Follow this advice. **Call your pediatrician.** Your health care provider may have suggestions for which formulas are similar to your usual brand or what to look for on the label. **Feel confident about the switch**. Remember that all infant formula on store shelves—whether store brand, name-brand, organic, or conventional—is safe for babies, meets strict FDA regulations, and contains the exact formulation of nutrients that babies need to grow, says [Bridget Young](https://babyformulaexpert.com/), Ph.D., a certified lactation counselor and an assistant professor of pediatrics at the University of Rochester.

2. Crisis is over

Out of stock percentage is about equal to pre-shortage levels, as of Nov 2022

Mariel Padilla 2022 (journalist) 28 Dec 2022 " The 19th Explains: Why baby formula is still hard to find months after the shortage" (accessed 8 Jan 2023) https://parents-together.org/the-19th-explains-why-baby-formula-is-still-hard-to-find-months-after-the-shortage/

According to the FDA, things are nowhere near as dire as they were at the height of the infant formula shortage when [more than 40 percent of all formulas](https://19thnews.org/2022/05/baby-formula-shortage-low-income-rural-families-limited-access/) were out of stock across the country. As of November 20, about 12.5 percent of formula baby powder was out of stock across the country — which is very close to pre-shortage levels, according to data from IRI, a Chicago-based market research firm.

3. A/T "Tariffs = Higher costs"

The poor aren't paying for it: Federal "Women Infants & Children" (WIC) program buys it for them

Mariel Padilla 2022 (journalist) 28 Dec 2022 " The 19th Explains: Why baby formula is still hard to find months after the shortage" (accessed 8 Jan 2023) https://parents-together.org/the-19th-explains-why-baby-formula-is-still-hard-to-find-months-after-the-shortage/

More than 80 percent of infants consume formula at some point in the first year of their lives. Low-income parents, particularly women of color, rely on formula to feed their babies at higher rates and continue to be most impacted by the shortage, [according to data from the Centers for Disease Control and Prevention](https://www.cdc.gov/breastfeeding/data/facts.html). As much as 65 percent of all formula in the United States is purchased by families through WIC, the assistance program for low-income women and children.

4. "Need" for formula is exaggerated

Formula marketing should have been stopped years ago. It creates huge artificial and unnecessary demand

World Health Organization 2022. "WHO reveals shocking extent of exploitative formula milk marketing" 28 Apr 2022 (accessed 8 Jan 2023) https://www.who.int/news/item/28-04-2022-who-reveals-shocking-extent-of-exploitative-formula-milk-marketing

Formula milk companies post content on their social media accounts around 90 times per day, reaching 229 million users; representing three times as many people as are reached by informational posts about breastfeeding from non-commercial accounts.  This pervasive marketing is increasing purchases of breast-milk substitutes and therefore dissuading mothers from breastfeeding exclusively as recommended by WHO. “The promotion of commercial milk formulas should have been terminated decades ago,” said Dr Francesco Branca, Director of the WHO Nutrition and Food Safety department. “The fact that formula milk companies are now employing even more powerful and insidious marketing techniques to drive up their sales is inexcusable and must be stopped.”

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SOLVENCY

1. FDA incompetence

FDA is incompetent to ensure infant formula safety… or to get just about anything done

HELENA EVICH 2022 (journalist) 31 Dec 2022 " ‘I know firsthand they failed’: Parents decry lack of FDA action on infant formula safety" POLITICO (accessed 7 Jan 2023) https://www.politico.com/news/2022/12/31/parents-fda-infant-formula-safety-00075857

There is still no single official clearly in charge of food at FDA, and the agency suffers from serious organizational and cultural problems that make it painfully slow to get just about anything done, as [a POLITICO investigation found earlier this year](https://www.politico.com/interactives/2022/fda-fails-regulate-food-health-safety-hazards/). These findings were confirmed this month in [a major outside review](https://reaganudall.org/operational-evaluation-fdas-human-foods-programs) of FDA’s foods program, sparked in part by POLITICO’s reporting on the FDA and the infant formula disaster, that was conducted by the Reagan-Udall Foundation, a nonprofit that supports FDA. “The lack of a single clearly identified person to lead the human foods program has adversely impacted the organizational culture and led to overlapping roles and competing priorities that result in what is perceived as constant turmoil,” concluded the expert panel, which was led by Jane Henney, who served as FDA commissioner during the Clinton administration.

2. Poor substitute

European infant formula is not recommended as a substitute for existing approved brands

Kelsey Borresen 2022 (journalist) HUFF POST 13 May 2022 " Can't Find Baby Formula During The Shortage? Here's What To Do (And Not Do)." (accessed 7 Jan 2023) https://www.huffpost.com/entry/cant-find-formula-what-to-do\_l\_627c3332e4b016d742f69356

“I don’t usually recommend buying European brands for a variety of reasons — even without a shortage,” said Trachtenberg, who is also a spokesperson for the American Academy of Pediatrics. “Instructions on preparation and scoop sizes may be different than in U.S., there could be issues with temperature control and transportation, recalls from outside USA may not be known, and some European formulas may have different levels of nutrients — for example, lower in iron than required in the U.S.”

3. AFF Solvency/Harms dilemma

AFF policy was in place for most of 2022 but it didn't solve - if you believe their harms evidence about ongoing shortages

Dilemma: if the problem is still happening despite almost a year of the AFF policies being in place, then their Plan has already been tried and failed. If the problem isn't still happening, then their inherency or harms evidence about ongoing shortages is wrong and the problem has gone away. But they can't have it both ways and say we have this big problem and we need to do more of the policy that didn't fix the problem.

DISADVANTAGES

1. Reduced breast feeding

**Note: This argument is NOT about adoptive moms who have no milk or other medically necessary situations where mom can't breastfeed at all and needs a replacement. This is about moms who are breastfeeding but they either believe or someone tells them erroneously that they need to supplement breastfeeding with formula. This is in most cases unnecessary and even harmful. A reduction in the supply of infant formula, if it were true, would be a wonderful time for our society to change this harmful behavior instead of simply demanding more formula for moms who shouldn't be using it. It also means the "need" for infant formula is exaggerated beyond what the Affirmative is claiming. We "need" to be reducing its use to only moms who can't breastfeed, not increasing the supply so that people who shouldn't be using it can still get it.**

Link: Only 10% of breastfed infants should receive supplemental formula, but much larger percentages are doing it, unnecessarily

Marsha Walker 2015 (Registered Nurse) 20 July 2015 "Formula Supplementation of Breastfed Infants: Helpful or Hazardous?" CHILDHOOD OBESITY & NUTRITION (accessed 7 Jan 2023) https://journals.sagepub.com/doi/full/10.1177/1941406415591208

The *2014 Breastfeeding Report Card* compiled by the Centers for Disease Control and Prevention showed that supplementation starts early, with up to 28% of infants in some states receiving formula supplementation within the first 48 hours of life. In some hospitals this supplementation rate is even higher, with 31% of vaginally born term infants supplemented with formula and 51% of cesarean born infants being given formula, even when the mothers intended to exclusively breastfeed. There will always be a small number of breastfed infants who require supplementation for medical reasons; however, the Healthy People 2020 health objectives for the nation targets a reduction in formula supplementation to 14.2% during the first 2 days of life. Furthermore, the Joint Commission, which accredits health care institutions in the United States, requires in its perinatal care core measure set that less than 10% of breastfed infants should be supplemented with formula during the birth hospitalization.

Impact: Babies suffer. Promoting breastfeeding exclusively would improve babies' health

Marsha Walker 2015 (Registered Nurse) 20 July 2015 "Formula Supplementation of Breastfed Infants: Helpful or Hazardous?" CHILDHOOD OBESITY & NUTRITION (accessed 7 Jan 2023) https://journals.sagepub.com/doi/full/10.1177/1941406415591208

Formula supplementation of the breastfed infant is engaged in for numerous reasons, many of which are not evidence based. While clinicians and mothers may view this practice as a benign intervention, there are a number of undesired side effects of which parents and health care providers may be unaware. These side effects can result in adverse outcomes on the maternal milk supply, on the duration and exclusivity of breastfeeding, and on the infant’s gut microbiome. Alterations of the neonatal gut environment from formula supplementation can be responsible for mucosal inflammation and disease, autoimmunity disorders, and allergic conditions in childhood and adulthood. Soy infant formula can contain genetically modified ingredients and present a food with lower nutritional quality. Careful assessment and interventions that are designed to produce outcomes of abundant milk production and rapid resolution of breastfeeding problems help preserve the exclusive breastfeeding experience and result in optimal health outcomes for mothers and their infants.

A/T "But a lot of moms have insufficient milk" - Supplementing with formula is often the reason they have insufficient milk

Marsha Walker 2015 (Registered Nurse) 20 July 2015 "Formula Supplementation of Breastfed Infants: Helpful or Hazardous?" CHILDHOOD OBESITY & NUTRITION (accessed 7 Jan 2023) https://journals.sagepub.com/doi/full/10.1177/1941406415591208

Reasons for supplementation vary depending on the age of the baby. The description of insufficient milk remains one of the main causes of formula supplementation throughout the first year and is often attributable to mothers’ lack of knowledge regarding the normal physiological process of lactation, not to a lack of milk. Initial difficulties with breastfeeding mechanics or perceived insufficient milk can usually be overcome with appropriate clinical interventions from knowledgeable health professionals such as dietitians and international board certified lactation consultants rather than resorting to formula supplementation. Early formula supplementation may inherently interfere with production of a full milk supply, especially if the mother has not been instructed to express her colostrum/milk and the original reason for the supplementation has not been addressed. Breastfed infants who are supplemented with a bottle may have subsequent difficulty latching to the breast properly and may cause nipple damage and reduced milk transfer, further jeopardizing the maternal milk supply.

2. Allergic reactions

Hypoallergenic Formula is defined differently in Europe and it's unsafe for babies in the US with allergies

Dr Dina DiMaggio MD and Dr Anthony Porto MD 2019. (*official spokespeople for the American Academy of Pediatrics and authored a*[recent study](https://journals.lww.com/jpgn/Abstract/publishahead/Comparison_of_Imported_European_and_US_Infant.96446.aspx)*that compared European formulas with FDA labeling and nutrient requirements)* "5 Reasons Doctors Don’t Recommend Using Imported European Baby Formula" 9 July 2019 (accessed 8 Jan 2023) https://www.thebump.com/a/european-baby-formula-safety

4. ‘Hypoallergenic Formula’ is Defined Differently in Europe and the US  
Hypoallergenic formulas (HA) in the US are formulas that can be used for infants with cow’s milk protein allergy. These formulas have proteins that are completely broken down into small peptides or amino acids (the building blocks of protein). In Europe, a formula may be labelled as HA even if they contain proteins that are only partially broken down. It’s not safe for these partially broken down proteins to be given to infants with cow’s milk protein allergy. This difference in definition can be confusing for parents and healthcare providers alike.

The specialty formulas that are still hard to find are the ones Europe can't replace under this Disadvantage

Mariel Padilla 2022 (journalist) 28 Dec 2022 " The 19th Explains: Why baby formula is still hard to find months after the shortage" (accessed 8 Jan 2023) https://parents-together.org/the-19th-explains-why-baby-formula-is-still-hard-to-find-months-after-the-shortage/

Jamila Taylor, an advocacy leader for the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC), said that she is hearing from parents across the country that certain specialty formulas are still hard to find. Those are often formulated for people with allergies, sensitive digestion or specific nutritional needs.

3. Third Party Vendors compromise safety

Even formula that meets EU standards can be unsafe because it passes through 3rd Party Vendors

Dr Dina DiMaggio MD and Dr Anthony Porto MD 2019. (*official spokespeople for the American Academy of Pediatrics and authored a*[recent study](https://journals.lww.com/jpgn/Abstract/publishahead/Comparison_of_Imported_European_and_US_Infant.96446.aspx)*that compared European formulas with FDA labeling and nutrient requirements)* "5 Reasons Doctors Don’t Recommend Using Imported European Baby Formula" 9 July 2019 (accessed 8 Jan 2023) https://www.thebump.com/a/european-baby-formula-safety

1. Third-Party Vendors May Not Be Safe  
Though these formulas meet the standards set in the European Union and are safe to consume, when American parents buy them, it’s often via third-party vendors. Purchasing formula this way means they’re imported outside of their normal “chain of control” and bypass the safety regulations set by the European Union and US FDA. This creates a potential opportunity for tampering and contamination of the formula, which can pose risks to babies. Plus, how these formulas are transported and stored is uncertain. If it’s stored at incorrect temperatures, the formula could prematurely start to deteriorate and lose key nutrients, such as vitamins A and C and protein. Finally, if a European formula is recalled for health or safety reasons, US parents may not be notified in a timely matter.

4. Premature babies harmed

Premature babies shouldn't use European infant formula because they have the wrong nutrients

Dr Dina DiMaggio MD and Dr Anthony Porto MD 2019. (*official spokespeople for the American Academy of Pediatrics and authored a*[recent study](https://journals.lww.com/jpgn/Abstract/publishahead/Comparison_of_Imported_European_and_US_Infant.96446.aspx)*that compared European formulas with FDA labeling and nutrient requirements)* "5 Reasons Doctors Don’t Recommend Using Imported European Baby Formula" 9 July 2019 (accessed 8 Jan 2023) https://www.thebump.com/a/european-baby-formula-safety

3. The Majority of Premature Babies Shouldn’t Use These Formulas  
In the US, premature infant formulas contain more phosphorus, calcium, protein and calories per ounce. European formulas aren’t recommended for preemies, since they don’t contain the correct nutrients and overall calories for adequate growth and development.