Breaking Down Non-Tariff Barriers

- America's dairy industry exported the equivalent of 17% of total U.S. milk production last year, or over $7.75 billion in dairy products. These exports play an indispensable role in supporting both America's dairy farmers and the manufacturing jobs found in dairy processing across the nation.
- Unfortunately, the U.S. dairy industry still faces several formidable barriers to trade, limiting job growth in one of highest-paying sectors in U.S. agriculture. America's policymakers can help.

USMCA Implementation and Enforcement Concerns

Canada

The Issue: Canada continues to ignore its U.S.-Mexico-Canada Agreement (USMCA) dairy market access commitments, despite USTR winning a USMCA dispute settlement case earlier this year over Canada's USMCA-violating dairy Tariff Rate Quota (TRQ) system. Unfortunately, Canada's subsequent proposal for a new USMCA dairy TRQ process would yield little change and still fall well short of its USMCA obligations. In addition to these TRQ compliance gaps, Canada continues to allow evasion of USMCA's dairy protein export disciplines which threatens to unravel the Class 7 pricing policy reforms that were a core accomplishment of USMCA.

The Solution: The U.S. must forcefully reject Canada's most recent dairy TRQ proposal and insist on real reforms that genuinely deliver on its USMCA commitments. The administration's decision here will set a precedent for future trade disputes, and only by rejecting Canada's proposal will we make clear that signed trade agreements are binding. In addition, the U.S. should insist that Canada open its TRQs to all entities involve in the marketing of dairy products in a way that doesn't benefit Canadian farmers or Canadian manufacturers. In addition, the United States must ensure that Canada adhere to its pricing dairy commitments in good faith and address the loophole concerns the U.S. dairy industry has identified.

Mexico

The Issue: Mexico is in the process of revising multiple dairy regulations and contending with strong protectionist pressures throughout those efforts. Of most immediate concern is a new Cheese Conformity Assessment Procedure (CAP) Mexico has proposed which would introduce harmful new compliance documentation burdens on U.S. products rather than allowing for a more streamlined approach or the type of spot-check enforcement steps deployed by U.S. officials for imports to this country. In addition, Mexico has yet to fully implement two USMCA side letters that established new protections for products that rely on common names, such as mozzarella and swiss cheese.

The Solution: The U.S. must insist that Mexico reject protectionism and preserve the smooth flow of U.S. dairy trade that has allowed total dairy consumption in Mexico to successfully grow under NAFTA and now USMCA. For instance, the new Cheese CAP must be revised to make it less burdensome. With respect to its USMCA side letters on common names, we must urge Mexico to fulfill its commitments to protect market access for the U.S. cheeses using common names specified under the agreement and to uphold protections for all prior users of common names throughout the supply chain.

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NMPF NATIONAL MILK PRODUCERS FEDERATION

USA U.S. Dairy Export Council. Ingredients | Products | Global Markets

EU Dairy Trade Dilemmas

The Issue: The EU continues to erect numerous barriers that are harmful to U.S. dairy exports. Most recently, numerous U.S. dairy shipments have been detained in EU ports due to a combination of the new EU dairy certificate regime, the intransigence of European officials, and the new USDA certificate system. This latest trade disruption is harmful yet is also merely a symptom of the underlying problem of the EU imposing overly burdensome, trade-distorting mandates on imports without regard to their impact on trading partners. That dynamic has led to a myriad of trade barriers – from overly prescriptive certificates to onerous import licensing procedures to newly contemplated burdens on imports merely to mirror emerging EU regulations on European farmers.

The Solution: The administration must prioritize immediate release of the detained shipments and ensure that the EU's relevant authorities provide swift, clear guidance to their ports to avoid future trade disruptions. Once the immediate crisis is resolved, the United States must resume efforts to secure broader recognition of the U.S. dairy regulatory system so that every change in EU regulations does not generate cumbersome new certification challenges for U.S. exporters. To truly drive change in the deeply flawed U.S.-EU agricultural trade relationships, the United States must explore ways to utilize the leverage that European reliance on our market affords us.

Indonesia's Broken Plant Registration Process

The Issue: Indonesia requires that dairy facilities complete a registration process prior to shipping to the market. In practice this operates as a deeply concerning barrier to trade as the process has become bogged down by extensive years-long delays and lack of transparency. Multiple U.S. facility applications are pending approval – dating back as far as Q1 2020.

The Solution: Indonesia should immediately approve the pending U.S. facility applications in order to remedy the years-long delay in their consideration. In addition, the U.S. should secure with Indonesia a systems recognition of the safety of the U.S. dairy regulatory system in order to provide a long-term solution to the deeply flawed facility registration process in this market.

China's Dairy Purchasing Shortfalls and Retaliatory Tariffs

The Issue: Continued Chinese retaliatory tariffs (levied in response to U.S. Section 301 tariffs on Chinese imports) on U.S. exports of milk powder, cheese and other products are stymying U.S. dairy export opportunities in this fast-growing market. China's application-based tariff relief system does not provide the long-term predictability needed for the U.S. dairy suppliers to regain a level playing field in this market. In addition, despite is U.S.-China Phase 1 commitments, China has not prioritized purchasing significantly higher shares of U.S. dairy, choosing instead to continue purchasing key commodities primarily from EU and Oceania suppliers.

The Solution: We must hold China accountable for their purchase commitments, emphasize the need to broaden U.S. dairy purchasing, press for removal of all retaliatory tariffs on dairy, and in the interim secure year-long retaliatory tariff exemptions for dairy products.

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Expanding Latin American Protectionism

The Issue: Some of dairy's key Latin American FTA partners are seeing a wave of anti-import sentiment driven by local producers. For example, Panama has officially requested the renegotiation of trade commitments on certain "sensitive" agricultural products, including dairy. And in Peru, the domestic dairy industry is seeking to prohibit use of the term "milk" on evaporated products produced with milk powder from the U.S. and other sources despite domestic production falling short of satisfying the nation's dairy demand.

The Solution: The U.S. government ensure that market access remains open for U.S. dairy products through government channels. We need the U.S. government to be actively and proactively working in Latin America to demand that our trade partners meet their international commitments under U.S. free trade agreements and the World Trade Organization (WTO). All market access benefits for U.S. dairy exports – including in U.S. FTAs – must be fully preserved.

Egypt's Sole-Source Halal Certifier Mandate

The Issue: In Fall 2021 Egypt introduced a new requirement that all imported dairy products be accompanied by a halal certification issued by a single company – "ISEG Halal". Despite this government-mandated import entry requirement, Egypt failed to issue additional regulatory information ensuring a reasonable cost structure and scope of halal certification elements. Rather, this new requirement appears to be largely designed to enrich a single, well-connected firm. Egypt has for now suspended implementation of the sole-source halal certification requirement until Oct. 2022.

The Solution: Egypt must allow for halal certification by other halal certifying bodies. Many U.S. dairy exporters are halal-certified already for other markets. Extending this certification to encompass Egypt as well would not be unduly burdensome; establishing an additional certification process and related costs solely for a single market is a significant burden however, especially if other markets did likewise.

EU's Campaign to Globally Monopolize Common Names

The Issue: In markets around the world, the European Union is working to carve out unjustified geographic indications (GIs) for EU-origin cheeses, meats, wines, and other agricultural products and prohibit the use of common food and beverage names.

The Solution: The administration should work proactively to secure firm and explicit market access commitments from our trading partners that assure the future use of specific generic food and beverage terms targeted by, or at risk of, EU monopolization efforts.