

Comments to the Office of the United States Trade Representative

Regarding

“Request to Reinstate Action Taken in Connection with European Union Measures Concerning Meat and Meat Products”

Federal Register Docket Number USTR-2016-0025

**Submitted by the
National Milk Producers Federation**

The National Milk Producers Federation (NMPF), headquartered in Arlington, VA, develops and carries out policies that advance the well-being of U.S. dairy producers and the cooperatives they collectively own. The members of NMPF’s cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of dairy producers on Capitol Hill and with government agencies. Dairy farming is the second largest agricultural industry in the U.S., generating \$35.7 billion in farmer receipts in 2015.

On January 23, 2009, the United States Trade Representative (USTR) announced its intention to modify the list of European Union (EU) products subject to increased duties resulting from the EU’s failure to bring its import regime affecting certain U.S. meat products into conformity with a ruling by the World Trade Organization (WTO). Subsequent to that announcement, the U.S. and EU held consultations that led to a Memorandum of Understanding (MOU) in which the EU agreed to phased increases in its tariff rate quotas for certain U.S. meat products. In May 2011 USTR suspended all increased tariffs on EU products.

The MOU has failed, however, to provide the benefits to the U.S. beef industry anticipated and USTR is now renewing its request for comments on the possible reinstatement of increased duties on the previous list of EU products (Annex II of the Notice) or on a modified list of products drawing from this list and a list of new products contained in Annex I.

In December 2008, in response to a similar request for comments prior to the negotiation of the MOU, NMPF noted that only one dairy product, Roquefort cheese, was included in either of the lists at the time and requested that additional dairy products be added for consideration. We are therefore disappointed to see that again only Roquefort cheese appears on either of the lists for consideration now. We wish to be clear: our interest in seeking inclusion of additional dairy products for consideration is not for protectionist purposes. It is because the inclusion of dairy would accomplish several important objectives related to this matter.

Dairy product exports to the U.S. are important to the EU, both politically and economically. Since the original WTO ruling in this matter in 1998, shipments of EU

dairy products to the U.S. have nearly doubled and in 2015 reached \$1.6 billion. Our dairy exports to the EU have not increased and in 2015 were valued at just \$99 million, 6 percent of what our market represents to the EU. Our extremely limited exports to the EU are due to myriad restrictions imposed on our products, as detailed in our submissions for USTR's National Trade Estimates Report and prior submissions for the U.S.-EU Transatlantic Trade and Investment Partnership negotiations.

In addition to the border measures employed by the EU to protect its dairy farmers, the EU has undertaken in recent years to block the use of many commonly used product names by any producer outside prescribed areas of the EU. What better way to impede or block imports of a given product than to ban the use of its name? An American producer of feta or parmesan cheeses, for example, can no longer sell such products in the EU, despite the fact that those names have been widely and generically used around the world for many years. To make matters infinitely worse, the EU has been insisting in its free trade deals that its trading partners also prohibit the use of such names except by EU producers. The EU's actions therefore also serve as a form of export support that puts at risk hard-won U.S. market access opportunities in markets around the world.

The inclusion of additional dairy products on the list might help EU officials understand the world in which we now must operate due to EU policies. Moreover, adding more dairy items to the lists would be certain to capture the attention of EU producers and politicians in order to heighten the likelihood of EU action to comply with its obligations in this case.

In addition, it is useful to note that for the suggested target products below, there are ready alternate supplies of the suggested target that are produced by U.S. companies so processors would not be short of product. In the case of specialty cheese imports, some of which may not be produced here, the U.S. nonetheless offers a wide spectrum of high quality cheeses and items unavailable here are likely to be high-end products, thereby alleviating any significant impact on average U.S. consumers or food processors. Consumers could pay more for the European item or might find that alternate American products are often of equal quality.

Finally, dairy products are produced in all of the 28 EU member countries. Dairy is a significant economic industry in a number of EU member states and a politically powerful interest group in the EU. According to the European Dairy Association, there are approximately 700,000 dairy farms across the EU and approximately 300,000 jobs related to milk processing in the EU. According to the European Commission, dairy is the number one product sector by value, accounting for 15% of agricultural output.

Dairy production's strongholds in the EU also overlay well with some of the EU's most influential and politically active member states. The EU's largest two member states – Germany and France – are also its two largest milk producers. As of 2014, those two member states accounted for over 35% of the EU's total milk production with other notable producers including the influential member states of Italy, Netherlands and Poland.

Further targeting retaliatory tariffs on those products from countries that played a leading role in restricting U.S. meat products or that are in a position to influence EU decisions on this matter would increase the effectiveness of those measures. Towards this end, although the United Kingdom is a significant dairy producer in the EU we would propose excluding products from the United Kingdom in recognition of its long-standing vocal championing of the importance of basing regulations on sound science and most importantly the reality that it is uniquely unwell placed to influence EU policy decisions.

For these reasons, we urge consideration of the additional products listed below.

In addition, we believe it is essential that the two Roquefort tariff lines be retained (04064020 and 04064040). To remove them would send a terrible signal to the EU regarding our commitment to the U.S. dairy industry on the issues mentioned above and would have the exact opposite effect intended by the announcement of possible reinstatement of additional tariffs.

Finally, as a matter of principle, we support the retention of those tariff lines directly applicable to the WTO case at hand. Namely, U.S. beef products which have been denied WTO-compliant access to the EU market. Our support for the retention of these lines is in light of the importance of delivering direct compensatory benefits wherever possible to the sector negatively impacted by a trading partner's decision to flout its commitment to the United States.

NMPF's recommendations for the inclusion of new products to be included in the list of products subject to increased duties related to this matter are below. Due to the importance of cheese to the European dairy sector's economic viability and the concentration of, certain cheese lines would be the optimal focus for expanded retaliation measures designed to look at current trade flows and craft the U.S. retaliatory response based on this latest information. The largest suppliers of the products below are typically France, Italy and Spain.

The EU's reliance on the U.S. cheese market has increased in the wake of the Russian embargo against EU dairy products since the Russian market was previously a very large purchaser of EU products. This is a change in the market dynamics that has developed since the earlier retaliation list was developed and one that demands to be factored into how to ensure the maximum impact to drive EU policy change. U.S. alternates to the products below exist to meet processor and food service needs, while a temporary shift in consumer buying habits of higher-end products would not pose a significant burden on typical U.S. shoppers.

First Tier Recommendations:

- **HTS 4060995 and 0406997** are the in-quota and out-of-quota lines for cheese containing cow's milk that has not been soft-ripened.

- In 2016 through November U.S. imports totaled a combined **\$163.7 million** with the vast majority of that product entering through the in-quota line of 04069095 under which the EU accounted for 71% of U.S. total imports for that tariff line.
- **HTS 04069041 and 04069042** are the in-quota and out-of-quota lines for romano, reggiano, parmesan, provolone, and provoletti cheeses made from cow's milk.
 - In 2016 through November U.S. imports totaled a combined **\$133.9 million**. The EU accounted for 87% of U.S. total imports for the in-quota tariff line and 100% of the total imports for the over-quota tariff line.

Second Tier Recommendations:

- **HTS 04069056** is the line for sheep's milk cheese in original loaves and suitable for grating (not subject to TRQ).
 - In 2016 through November U.S. imports totaled **\$131.6 million** and the EU accounted for 97% of U.S. total imports for that tariff line.
- **HTS 4069099** is the line for cheese not containing cow's milk, or soft-ripened cow's milk cheese (not subject to TRQ).
 - In 2016 through November U.S. imports totaled **\$112.9 million** and the EU accounted for 81% of U.S. total imports for that tariff line.
- **HTS 04069057** is the line for pecorino cheese from sheep's milk in original loaves and not suitable for grating (not subject to TRQ)
 - In 2016 through November U.S. imports totaled **\$84.2 million** and the EU accounted for 97% of U.S. total imports for that tariff line.