**Written Comments by the**
**National Milk Producers Federation**

**to the**

**International Trade Commission**

**in connection with**

**Investigation 332-325**
**The Economic Effects of Significant U.S. Import Restraints:**
**Sixth Update**

**Washington, DC**
**February 6, 2009**

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 31 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 40,000 dairy producers on Capitol Hill and with government agencies. NMPF appreciates the opportunity to submit for the record the Federation's views on the sixth update of Investigation 332-325, the Economic Effects of Significant US Import Restraints.

Dairy farming is the second largest agricultural industry in the U.S., generating an estimated $35 billion in farmer receipts, or 12% of the value of all U.S. agricultural receipts in 2007. The dairy industry is the second largest agricultural commodity sector in the United States, measured by farm cash receipts. In 2007, there were over 70,000 dairy producers and about 60,000 licensed dairy herds in the U.S. operating in every state. In addition, there are several hundred dairy processors located throughout the country producing quality dairy products. Dairy is one of the top three agricultural sectors in fully half of the states, and internationally, the U.S. is the world's largest single-country producer of cow's milk.

Dairy farmers and their marketing cooperatives have a major economic interest in international trade of milk and dairy products, but the world dairy market is affected by a variety of trade-distorting subsidies, maintained by many countries. Measures of various types that restrain imports are particularly ubiquitous around the world, but vary considerably in degree from one country to another. For instance, tariffs in Canada on skim milk powder imports equal approximately 202% on an *ad valorem* basis while the tariffs for the same product in the US are approximately 56%. Similarly, Canadian tariffs on butter imports are approximately 306% while butter imports into the US face rates that are only approximately 1/3 that level (106% on an *ad valorem* basis).

In addition to the extremely unbalanced levels of tariff protection among the world's largest well-developed dairy markets, the U.S. dairy industry also faces the prospect of defending against the exorbitant levels of export subsidies available to the European Union. In January, the EU announced that it was reactivating its dairy export subsidy program. These tilt an unbalanced playing field even more sharply against the U.S. dairy industry, further increasing pressures on the U.S. market to absorb additional dairy products at depressed prices.

Given their particular importance to global dairy market dynamics and to the U.S. dairy industry, the focus of these remarks will be the quantitative import restrictions in the form of tariff-rate quotas (TRQs) that apply to U.S. imports of a number of dairy products. The United States imposes TRQs on imports of various dairy products as part of its rights under the Agreement on Agriculture concluded pursuant to the Uruguay Round of multilateral trade negotiations, now administered by the World Trade Organization (WTO). These TRQs are liberalized versions of the prior import quotas which were imposed under the authority of Section 22 of the Agricultural Adjustment Act to prevent unrestricted imports from rendering the domestic dairy price support program ineffective.

Although it was modified in the 2008 Farm Bill, the essential goal and characteristics of the dairy price support program (now Dairy Product Price Support Program – DPPSP) continues in operation and is currently an essential aspect of support to the U.S. dairy industry. This is particularly true at this point in time, with the Commodity Credit Corporation having purchased 142 million pounds of nonfat dry milk, or skim milk powder, between October 1, 2008 and January 23, 2009. Sales of butter and cheese to CCC are also anticipated by many to rise in the coming months given expectations for continued depressed prices. Although the support prices for the DPPSP have been set at well below virtually all dairy producers' cost recovery thresholds, the program is serving as an important backstop against even further erosion of dairy prices in a quickly plummeting pricing situation.  Thus, the policy of restricting U.S. imports of dairy products to prevent this program from being rendered ineffective continues to be a necessary component of U.S. domestic dairy policy, one partially, but not completely, supported by the TRQs the U.S. has the right to impose under the WTO agriculture agreement.

Having laid that foundation, the comments below focus on the basic purpose of this investigation - assessing the quantitative economic effects of U.S. dairy import restraints on the U.S. economy.

## Extent of U.S. Dairy Import Restraints

While the U.S. imposes restraints on imports of certain dairy products, the U.S. domestic dairy market cannot accurately be described as highly protected.  Dairy products and products containing significant content of dairy components can enter the United States under upwards of four hundred individual tariff lines under the Harmonized Tariff Schedules of the United States.  In fact, there are 392 individual HTS tariff lines that NMPF specifically tracks in its analysis of the U.S. international trade situation with respect to dairy.  These do not even include many HTS tariff lines for manufactured food products containing dairy ingredients for which it is not possible to estimate the dairy content to any reasonable degree.

Of these 392 tariff items, 135, or one-third, are not subject to tariff-rate quotas but are subject only to low, fixed tariffs or, in a few important cases, are duty-free. The remaining 257 items represent items subject to 27 separate TRQs, of which 126 represent in-quota TRQ imports, subject to lower, in-quota rates of duty, and 131 represent over-quota TRQ imports, which pay higher, out-of-quota duty rates under these same TRQs.

While it is common to measure trade volumes in terms of monetary value, we also frequently measure dairy trade volumes in terms of an aggregate physical measure, such as milk equivalent or total milk solids, which provides a common denominator that is useful for both exposition as well as economic analysis.  The specific measure we use is total milk solids, or the quantity, by weight, of the basic components of milk, specifically butterfat and nonfat milk solids, contained in given quantities of different dairy products.  These components represent the portion of milk which has economic value.

**U.S. DAIRY IMPORTS, 2005-2008, BY TRQ STATUS, VALUE AND TOTAL MILK SOLIDS**

| | Total Value (mil. $) | | | | Total Milk Solids (mil. lbs.) | | | |
|---|---|---|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2008 (Jan-Nov) | 2005 | 2006 | 2007 | 2008 (Jan-Nov) |
| Total Tariff-only items | $1,739 | $1,712 | $1,917 | $1,979 | 622 | 585 | 599 | 581 |
| Total In-quota TRQ items | $658 | $650 | $683 | $616 | 230 | 221 | 231 | 156 |
| Total Out-of-quota TRQ items | $382 | $445 | $416 | $356 | 159 | 182 | 172 | 111 |
| All Dairy Imports | $2,780 | $2,807 | $3,017 | $2,952 | 1,011 | 989 | 1,002 | 848 |

**Source: U.S. Bureau of the Census, National Milk Producers Federation**

The table above summarizes total annual U.S. dairy imports under the HTS items listed in Annex I for the period 2005 through the first eleven months of 2008, by TRQ status. It shows, for example, that $1,917 million, or two-thirds of the $3,017 million total value of dairy products and products containing significant content of dairy components imported into the U.S. during 2007 was imported subject only to low or zero tariffs. Similarly, the total milk solids content of all dairy imports in 2007 was about one billion pounds, of which about 600 million, or 60 percent, was subject to either low tariffs or was duty-free.

In addition, $416 million of the $3,017 million in total value, and 172 million of the one billion pounds of total milk solids imported subject to TRQs in 2007 was imported out of quota at the higher-tier duty paid rate.

These statistics show that significant import restraints apply to less than one-half of U.S. dairy imports, that the restrictions on such products that are subject to TRQs are far from absolute, and that significant imports of TRQ-subject products above their respective tariff-quota levels are common. These facts show that the common perception of the U.S. dairy industry as highly insulated from import competition is inaccurate.

This accessibility is all the more marked during times of depressed global dairy prices such as those the world dairy market – including the U.S. – is facing in 2009. As other markets for dairy products dry up, the U.S. faces a doubly challenging situation by seeing increased import pressures through out-of-quota imports and increased attempts to circumvent existing tariffs at the same time as prices drop to support price, which is unsustainable for a prolonged period of time. The added import pressure contributes to keeping U.S. prices depressed for longer periods, thereby exacerbating the already difficult situation farmers face – if history is any guide, we will see that trend play out this year as well.

**Important Exceptions to U.S. TRQ Framework**

There are some very notable exceptions to the U.S. TRQ framework that account for significant portions of the tariff-only access provided to the U.S. dairy market. It is important to note that most other major dairy markets in developed countries do not provide access for these products that are growing in importance and use world-wide.

For example, one of the major dairy products which currently enjoys virtually unrestricted access to the U.S. dairy market are milk protein concentrate (MPC), casein and caseinates. MPC is imported under HTS items 0404.90.10 and 3501.10.10. Total annual imports of MPC were 27,800 metric tons and $108.7 million over during 2004-2007. Total annual imports of casein and casienates (HTS items 3501.10.50 and 3501.90.60) were 92,300 metric tons and $538,400 during the same period.

As NMPF has testified to the ITC in past investigations, imports of MPC, casein and caseinates have at times grown to such an extent that they have interfered with the operation of the dairy price support program. This was particularly evident during the recent downturn in dairy markets at the beginning of this decade. As we appear to be on the brink of what may again be very sizable period of purchases by the CCC, the prospect for such intrusion on the operation of DPPSP as intended remains as Congress has not yet acted on legislation to impose WTO-consistent TRQs on imports of these products.

Thank you for the opportunity to present the views of the National Milk Producers Federation on this important issue.