



June 27, 2017

The Honorable Steven Ciobo MP  
Minister for Trade, Tourism and Investment  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Mrs. Cecilia Malmström  
EU Commissioner for Trade  
European Commission  
Rue de la Loi / Wetstraat 200  
1049 1049 Brussels  
Belgium

The Honorable Ildefonso Guajardo  
Mexico Secretary of Economy  
Paseo de la Reforma 296,  
Col. Juárez, Del. Cuauhtémoc, Ciudad de  
México. C.P. 06600

The Honorable Todd McClay  
Minister of Trade  
Private Bag 18888  
Parliament Buildings  
Wellington 6160

The Honorable Robert Lighthizer  
United States Trade Representative  
600 17th Street, NW  
Washington, D.C. 20508

The Honorable Miguel Braun  
Secretary of Trade  
Hipólito Yrigoyen 250  
(C1086AAB) CABA, Argentina

Dear Secretary Braun, Minister Ciobo, Commissioner Malmstrom, Secretary Guajardo,  
Minister McClay, and Ambassador Lighthizer:

### **Canada: Access for Dairy Products**

Last September the undersigned representatives of the dairy industries of Australia, the EU, Mexico, New Zealand and the US wrote to you (or your predecessor) to express our concern at Canadian dairy policy developments. Specifically, we were concerned that the “Agreement in Principle” that had recently been reached between Canada’s dairy producers and processors was designed to incentivize the substitution of Canadian domestic origin dairy ingredients for dairy ingredients imported from our countries, and to position the export of Canadian dairy products to unfairly compete against our products in third country markets. With Canada’s adoption of the new special milk Class 7, that Agreement has become reality; and so too have the substitution of Canadian ingredients for our imports and the undercutting by Canadian protein exports of our exports in third country markets.

We are now writing, joined by a representative of the dairy industry of Argentina, to ask the authorities in Argentina, Australia, the EU, Mexico, New Zealand and the US to pursue all avenues available to challenge these measures, including WTO dispute settlement and bilateral trade agreement relationships. In the absence of such efforts Canada’s Class 7 policy will seriously further distort and disrupt international dairy trade, causing harm to our farmers.



## Background

The present structure of Canada's supply managed dairy industry dates from the early 1970s. As we noted in our earlier correspondence, the system operates by allocating production quotas, setting prices that vary through a range of milk classes, and controlling imports with tariff rate quotas on imports varying between 200% and 300%. Canadian milk production levels were maintained between 74.8 million hectoliters in 2000 and 76.7 million hectoliters in 2010, with no discernible trend line. However, a distinct upward trend line has now emerged with 4% growth per annum over the last two years, and 2016 production of 84.7 million hectoliters being the highest in Canadian history. This might not be problematic if there was a market for this additional milk in Canada, but that is not the case. The upward trend in milk production is the result of production quotas being set on estimated butter consumption, which has been growing rapidly. However, the coproduct of butter production - milk protein - has not seen a similar increase in demand. This has resulted in a structural surplus of milk protein, exemplified by excess production of skim milk powder (SMP), ballooning to over 100,000 MT per annum.

## Canada's Response

To address this structural surplus a new ingredient milk class - initially Ontario Class 6 and now National Class 7 - was created, with milk priced to processors at the lowest world price to produce dairy protein ingredients. The impact has been two-fold: first, the substitution of Canadian dairy ingredients for imported milk proteins, and second, an increase in non-WTO-compliant Canadian exports of milk protein. The first is evidenced by the widely reported cancellation of contracts by Canadian cheese makers for US sourced ultrafiltered (UF) milk. The second, by a review of Canadian exports of skim milk powder (SMP), the most easily produced milk protein product.

Between 2009 and 2014 Canadian exports of SMP increased irregularly from 10.1 thousand tonnes to 12.7 thousand tonnes, and again modestly to 13.6 thousand tonnes in 2015. The adoption of Ontario's Class 6 in April of 2016 saw 2016 SMP exports jump 74% to 23.7 thousand tonnes. The first four months of 2017 showed a further year on year increase of 273% to 11.9 thousand tonnes. Moving this protein onto the thinly traded global market of around 2 million MT of SMP per annum will add to the already swelling global supply of milk protein and depress market prices for farmers around the world.

## Canada's Obligations

The adoption of Class 7 (and Ontario Class 6 before it) is a measure which is inconsistent with a number of commitments that Canada has undertaken. For example:

- In December of 2015 at Nairobi, Kenya, Canada became a signatory to the Export Competition Ministerial Decision, thereby undertaking to terminate all scheduled export subsidies by the end of 2020, maintain a quantity standstill at 2003-05 levels until then,



and refrain from applying export subsidies to new products or new markets. The 2016 Canadian exports of 23.7 thousand tonnes, noted above, is an amount in excess of the Nairobi standstill agreement amount.

- As part of the 2003 resolution of the WTO dispute settlement case brought by the United States and New Zealand against Canada's special milk class for exports, Canada agreed "that, for the marketing year beginning 1 August 2003, and thereafter, Canada's exports of dairy products for which export subsidies have been granted will not exceed the quantities and budgetary outlays specified in its WTO Schedule. The upward trend in Canada's exports of SMP, reported above, is rapidly approaching the 44.9 thousand tonnes Uruguay Round annual quantity commitment.

### Conclusion

Our respective dairy industries are firmly of the view that the operation of Ontario's Class 6 and Canada's Class 7 contravene Canada's international commitments. Canada's increasingly protectionist policies are diverting trade with attendant global price-depressing impacts, and are in conflict with the principles of free markets and fair and transparent trade. We therefore request the authorities of Argentina, Australia, the EU, Mexico, New Zealand, and the US to take all steps available to them to resolve this issue and ensure that Canada complies with its international obligations.

With best regards,

President  
Australian Dairy Industry Council (ADIC)

Secretary General  
European Dairy Association (EDA)

Secretary General  
European Whey Products Association (EWPA)

Secretary General  
European Association of Dairy Trade (Eucolait)



Executive Director  
Dairy Companies Association of New Zealand (DCANZ)

Chief Operating Officer  
U.S. Dairy Export Council (USDEC)

President & CEO  
International Dairy Foods Association Federation (IDFA)

President & CEO  
National Milk Producers Federation (NMPF)

General Director  
Camara Nacional De Industriales de la Leche (Canilec)  
Mexico National Chamber of Industrial Milk

President  
Centro De La Industria Lechera (CIL)  
Centre of the Argentine Dairy Processing Industry

Cc:

- The Honorable Barnaby Joyce MP, Deputy Prime Minister, Minister for Agriculture and Water Resources, Australia
- Mr Phil Hogan, EU Commissioner for Agriculture & Rural Development, European Commission
- Mr Jean-Luc Demarty, Director-General for Trade, European Commission
- Mr Jerzy Bogdan Plewa, Director-General for Agriculture & Rural Development, European Commission
- The Honorable Nathan Guy, Minister of Primary Industries, New Zealand
- Mr Martyn Dunne, Director General, Ministry for Primary Industries, New Zealand
- Mr Vangelis Vitalis, Deputy Secretary Trade and Economic, Ministry of Foreign Affairs & Trade, New Zealand
- The Honorable Sonny Perdue, Secretary, U.S. Department of Agriculture
- The Honorable Juan Carlos Baker, Deputy Secretary of Trade, Mexico