

**Joint Comments by the
National Milk Producers Federation and the
U.S. Dairy Export Council to the
U.S. Trade Representative's Office
On China's WTO Compliance
Docket Number: USTR-2016-0012-0001
September 21, 2016**

The National Milk Producers Federation and the U.S. Dairy Export Council appreciate the opportunity to provide comments in response to the request by the Office of the U.S. Trade Representative for private sector input related to China's compliance with its WTO Commitments.

Over the past decade, China has become a critically important market for U.S. dairy exports. It is also one that continues to grow, given its rapidly expanding demand for dairy products. Sales last year alone totaled \$452 million. In recent years China has ranked as the 2nd or 3rd largest export market for U.S. dairy products.

Our industry sees tremendous potential in this market as demand for dairy products continues to expand in China. In order to maximize that potential, however, it is critical for the U.S. government to work cooperatively with China in pursuit of reasonable and WTO-compliant regulations that allow for smooth trade in dairy products.

USDA and FDA have worked extensively with China over the past several years regarding items critical to U.S. exports to China. Work on various issue of major significance to U.S. exporters continues, most notably continued dialogue regarding the memorandum of understanding relating to China's plant listing requirements. It is critical that the U.S. government prioritize resolution of this issue on the necessary timeline and with the required creativity needed to arrive at a final MOU agreeable to both countries.

In addition, the topic of geographical indications (GIs) is a key factor of interest for our industry in this large and expanding market. Dairy suppliers from around the world at largely at the outset of developing cheese demand in China. U.S. suppliers deserve an equal opportunity to help introduce Chinese consumers to high-quality cheeses commonly produced in the U.S.

China's Plant Registration Requirements

Starting in 2012, the Chinese Government began implementing Decree 145, which requires the registration of facilities shipping to China. USDA & FDA have worked closely with the Chinese Government since then to help ensure that this regulation would not result in the blockage of trade. In May 2014, the first version of the China dairy plant list of registered U.S. facilities was published. Since then, China has updated the dairy plant list multiple times and permitted additional companies to correct listing errors.

This work by the U.S. government together with China has successfully maintained market access for most U.S. dairy exporters, and most U.S. dairy companies exporting to China have successfully registered their facilities. However, some companies remain unable to ship certain dairy products to China such, as fluid products or infant formula products. This remains a strong concern.

Of most significant concern, however, is the memorandum of understanding (MOU) with China's Certification and Accreditation Administration of the Peoples Republic of China (CNCA) to address China's Decree 145 requirements. It is critical that the U.S. government prioritize resolution of the MOU. As the competent authority charged with overseeing dairy food safety issues in the U.S., FDA plays a significant role in achieving this result and we urge FDA ensure that the necessary resources are devoted to resolving it expeditiously.

Equally important however, is FDA's collaboration with USDA. USDA is the agency charged with facilitating US agricultural exports and most attuned to trade disruption concerns. It is also in more frequent discussions with China regarding trade topics. The U.S. government must ensure that a fully transparent interagency discussion that provides for consultation and input by both involved agencies on this issue is taking place. This interagency cooperation and collaboration is essential to a successful outcome with China.

Registration of Geographical Indications

As of the date of these comments, China is involved in ongoing negotiations with the European Union (EU) over an agreement on geographical indications. NMPF & USDEC have deep concerns about the impact this agreement may have on U.S. exports to China and particularly on opportunities to continue to expand the range of U.S. products sold in this rapidly evolving market. In addition,

The EU has a clear track record of utilizing trade agreements as a tool to block access into the markets of its partners to those agreements. This is in clear violation of WTO commitments and often of TRIPS commitments as well. The EU routinely claims that its approach to GIs is based on preserving European intellectual property yet the EU GI model has tremendously over-reached in recent years in order to directly attack the use of terms that commonly use in wide-spread manner in international dairy production and trade.

It is our hope that China decides to uphold its existing international commitments when choosing what new commitments to make in its GIs Agreement with the EU and as part of those applications considered under its GI and trademark systems. We commend the U.S.-China Joint Commission on Commerce and Trade agreement in December 2015 as an important tool in working to secure such a result.

Conclusion:

We appreciate the opportunity to submit comments on China's WTO compliance. Our industry is deeply appreciative of the work that the Administration has devoted to pursuing resolution of

these issues with China and look forward to continuing to partner with this Administration in pursuit of the common goal of smooth trading relations with this important country.

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