



March 22, 2020

The Honorable Katherine Tai
U.S. Trade Representative
600 17th Street NW
Washington, DC 20006

Dear Ambassador Tai,

On behalf of America's dairy industry, we are writing to congratulate you on your Senate confirmation as U.S. Trade Representative (USTR). We look forward to working with you in your new role to continue our efforts to expand trade opportunities for America's dairy industry.

As you know, U.S. dairy exports are critically important to the economic health of America's 32 thousand dairy farmers, the over 3 million American workers whose jobs are supported by the U.S. dairy industry¹ such as farm workers, milk haulers and dairy processing plant employees, and the millions of Americans across the country who depend on a robust dairy supply chain. In 2020, the U.S. exported over \$6.5 billion in dairy products worldwide, equivalent to approximately 16% of total U.S. milk production. The U.S. dairy industry prides itself on its reputation for producing high quality products while serving as an agricultural sector leader on improving sustainability. Opening new markets and growing our dairy exports requires consistent and fair trade rules to level the playing field that our farmers and dairy manufacturers in all fifty U.S. states face around the world.

As our industry faces a rising number of export challenges, there are several key issues that require your clear-sighted leadership. To ensure that you are fully aware of the U.S. dairy industry's top-line priorities, the enclosed memo outlines several specific areas of needed focus, encompassing both tariff and non-tariff barriers, that, if resolved, will improve the smooth flow of U.S. dairy exports. This includes diligent enforcement of the trade agreements already in place; expanding markets through the negotiation of new free trade agreements; lowering or removing high tariffs and retaliatory duties; removing unwarranted nontariff barriers to trade, establishing clear protections for common terms to combat the misuse of geographical indications, and advocating for science-based standards and trade rules.

Your important role as a central member of the President's economic team cannot be overstated. We have full confidence that with your leadership at the helm of USTR, we will strengthen dairy exports and deliver a brighter future for America's dairy industry.

¹ Source: International Dairy Foods Association's Dairy Delivers economic analysis:
<https://www.idfa.org/dairydelivers>

Congratulations again.

Sincerely,

Handwritten signature of Krysta Harden in black ink.

Krysta Harden
President and CEO
U.S. Dairy Export Council

Handwritten signature of James Mulhern in blue ink.

James Mulhern
President and CEO
National Milk Producers Federation

cc: Mr. Thomas Vilsack, Secretary of Agriculture

U.S. Dairy Trade Overview and Priorities

The U.S. Dairy Export Council (USDEC) and National Milk Producers Federation (NMPF) appreciate the opportunity to present this overview of key dairy trade issues and priorities to assist the Administration with its review and assessment of trade policy issues. USDEC is a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, proprietary processors, dairy cooperatives, and export traders. The Council's mission is to build global demand for U.S. dairy products and assist the industry in increasing the volume and value of exports. NMPF is the United States' national farm commodity organization that represents 32,000 dairy farmers and the dozens of the dairy cooperative marketing associations they own and operate throughout the United States.

Given heightened global interest in sustainable food systems, the U.S. dairy industry is well poised to meet the environmental and animal welfare demands of the international community. American dairy farmers have been environmental stewards for decades, tending with great care to their land and water, and they value a proactive approach to sustainability. As a testament to dairy's endeavors, greenhouse gas emissions to produce a gallon of milk dropped nearly 20% over the 10 years from 2007 to 2017 and the environmental footprint of a gallon of milk has significantly decreased since 1944 (e.g., 90% less land, 65% less water, 63% smaller carbon footprint per unit of milk). To continue and enhance our efforts to combat climate change, the dairy industry has launched the Net Zero Initiative to reduce the industry's climate impact to become carbon-neutral by as early as 2050 and minimize the water quality impacts of dairy farming. The U.S. dairy industry has also developed the industry-driven Farmers Assuring Responsible Management (FARM)¹ program for animal care standards, which recently became the first internationally certified dairy animal welfare program in the world.

Exports have become extremely important to the U.S. dairy industry. Last year we exported over \$6.5 billion in dairy products worldwide, equivalent to approximately 16% of total U.S. milk production. Those sales play an indispensable role in supporting the livelihoods of America's dairy farm families, farm workers, milk haulers, dairy processors, dairy plant employees and many others throughout the supply chain. The U.S. dairy sector supports approximately three million American jobs from farm to fork throughout the supply chain.² As a result, impairing export sales harms not only farmers, but also workers supplying inputs and services and those involved in downstream processing, as well as in cities with large port facilities heavily dependent on trade. And in turn, measures that help drive greater dairy exports support those American jobs and businesses.

¹ <https://nationaldairyfarm.com/what-is-farm/>

² See: <https://www.nmpf.org/milk-pricing-economics/dairy-got-jobs/#:~:text=Dairy%20Creates%20Jobs%2C%20Exports%20Create,us%20to%20the%20next%20level> Source: Dairy DeliversSM economic impact tool created by IDFA.



To support American farmers and workers throughout the supply chain, we request that the Administration prioritize the following initiatives to help ensure the economic health of the U.S. dairy industry and rural communities and their supply chain.

Enforce USMCA

Vigorously enforcing the U.S.-Mexico-Canada Agreement (USMCA) will ensure that U.S. dairy producers and processors receive the agreed benefits from both Canada and Mexico.

We urge continuation of the USMCA Dispute Settlement procedures against Canada's dairy tariff-rate quota (TRQ) arrangement in order to successfully resolve it expeditiously through further consultations or requesting establishment of a panel to secure full compliance by Canada. Canada has a long history of sustained efforts to undermine access to its dairy market and impair the value of trade concessions granted for dairy access as part of its agreements. USMCA is shaping up to be no exception. Canada has chosen to administer its USMCA TRQs in a manner that discourages full utilization and valuation of agreed upon quantities, for example, by allocating up to 85 percent of each TRQ to Canadian processors and by failing to levy penalties when TRQ allocations are not filled. In addition, we encourage close monitoring of Canada's commitments with its USMCA dairy pricing and export policy commitments. Canada's actions on their TRQ administration over the past year have only underscored the importance of careful U.S. monitoring of Canada's implementation of all of its dairy commitments, including in particular USMCA-mandated export surcharge provisions intended to curb Canadian exporting of large volumes of low-priced dairy protein on global markets. Ensuring that Canada abides by USMCA provisions designed to prevent Canada from scaling back existing market access to offset that provided under USMCA is also critical.

USMCA enforcement is not just about Canada, however. Mexico is the top U.S. export market for a variety of dairy products. However, Mexican authorities are increasingly creating or attempting to create additional hurdles to the flow of trade. Mexico has proposed several measures that would have significant impact on U.S. exports, including new labeling regulations and implementation of unwarranted conformity assessment procedures for various dairy products. Moreover, Mexico boosted restrictions on common cheese names, considered the imposition of tariffs on milk powder imports, created new import certification hurdles, and is maintaining restrictions on access for raw milk for pasteurization. We urge the Administration to engage with Mexico to address the systemic and tumultuous impacts on trading conditions resulting from these various measures and their conflicts with Mexico's USMCA commitments.

Conclude Market Expanding Trade Agreements

U.S. trade agreements have had a beneficial impact on the U.S. dairy industry through the reduction or removal of both tariff and nontariff barriers to U.S. dairy products. To continue that job-creating trend, our industry strongly encourages the retention of existing trade agreements and the pursuit of new ones with carefully selected partners as a goal of the utmost importance. To have the full set of tools at the



Administration's disposal, we strongly urge early action to promote and prepare for an extension of Trade Promotion Authority.

In total, dairy product exports to countries with which the United States has a free trade agreement (FTA) have grown by \$2.14 billion since their respective implementations and last year accounted for almost half of the \$6.5 billion total we exported to the world. FTAs have played an essential role in growing U.S. dairy exports by the equivalent of 1.4 billion gallons of milk to the U.S.'s FTA partners. That growth is greater than what Michigan, the sixth largest U.S. milk producing state, produces in one year. Overall, dairy exports to FTA partners have helped add the equivalent of \$17 billion in revenue for U.S. dairy farmers.

As the United States evaluates potential new partners for trade agreements, we urge a prioritization on concluding ongoing negotiations with the United Kingdom and Kenya and the commencement of negotiations with Japan. In addition, we urge the Administration to pursue additional agreements with important agriculture importing markets in which we compete head-to-head with other major dairy suppliers from our biggest trade competitors (the EU and New Zealand). For example, a focus on new agreements with key Asian markets such as Vietnam, Indonesia, the Philippines and elsewhere in Southeast Asia could produce major benefits for U.S. dairy producers and processors.

Restore Export Growth to China

Over the past decade, China has become a critically important market for U.S. dairy exports. Sales last year alone totaled over \$373 million, ranking China the third largest export market for U.S. dairy products, despite the dire impact of China's retaliatory tariffs in response to USTR Section 301 duties.

The U.S.-China "Phase One" economic and trade agreement in 2020 resolved numerous regulatory impediments for U.S. dairy exports to the Chinese market. However, retaliatory duties still place the vast majority of U.S. dairy exports at a disadvantage when compared to our major trade competitors, and the total value of our exports to China has dropped since 2017. Notably, the tariff exemption application-based process that provides tariff relief only for specified product quantities has proven to be insufficient to restore a level playing field for U.S. dairy exporters. Further, China has ample room to further increase its dairy purchases of key dairy commodities such as milk powder and cheese to help fulfill its pledged additional U.S. agricultural purchasing under the Phase One deal.

As the Chinese retaliatory tariffs are the most pressing impediment to dairy trade with China, it remains important for the Administration to work cooperatively with China to secure an agreement that ultimately eliminates all retaliatory tariffs on dairy HTS lines and, in the interim, to pursue targeted tariff relief for dairy through greater use of the year-long tariff relief process. Moreover, we urge consideration of how to ultimately create a fully level playing field for our exporters that face significant tariff disadvantages compared to China's FTA partners New Zealand and Australia. We ask the Administration to pursue targeted year-long tariff relief requests with China, focusing on those product



areas for which the existing application-based tariff exemption process is not working sufficiently such as with dairy.

Entrenched EU Barriers Impacting Trans-Atlantic Trade

In light of the EU's active outreach to the United States regarding a swift restart and refocus to Transatlantic relations, we would like to emphasize the importance of ensuring that the Administration is fully informed about the degree to which the EU has used trade barriers to erect a sizable trade gap in dairy to the benefit of EU farmers and food producers. The United States' trade deficit with the European Union (EU-27 + UK) in dairy was a remarkable \$1.6 billion in 2020. This is even though the United States is itself a major dairy exporter.

To contain and minimize harm from these EU policies, we believe it is essential that the United States counter the EU's efforts to export its anti-competitive approaches to dairy trade to third country markets. This includes EU efforts to impede competition from U.S. companies through its promotion of an approach to geographical indication (GI) systems that restricts the use of common food names; its recent promotion of new "Farm-to-Fork" standards on product sourcing and ingredients, which we are concerned will serve as yet another layer of agricultural protectionism; and new dairy and composite certificates that include numerous areas posing strong concerns that risk curtailing U.S. dairy exports to the EU. In the meantime, we urge the Administration to avoid steps that exacerbate the extraordinary dairy trade deficit with the EU. With respect to the prospect of renewed FTA negotiations, we believe that a focus on other markets would generate swifter and deeper advances for U.S. farmers and food producers. On a near-term basis, the United States should demand fair market access into the EU and full compliance with the WTO Airbus dispute ruling through its work to resolve the aircraft cases and bring about tariff relief for U.S. exporters.

Counter EU Efforts to Export Expropriation of Common Food Names Through Use of Geographical Indications

We urge the Administration to take decisive action to safeguard the use of common food and beverage terms for American exporters by securing commitments explicitly preserving their usage from U.S. FTA partners, then building on that progress with other countries as well. The European Union has continued its efforts to monopolize the use of common food and beverage terms through its FTA negotiations and other international avenues. By advocating for wider use of GIs and insisting on an extremely broad scope of protection for those GIs, the EU is actively working to give EU companies the sole right to use many terms that are in widespread common usage around the world and, in some cases, even covered by an international Codex Alimentarius standard. The EU has refused to adopt a simple solution to the problem applied in the United Kingdom that involves protecting multi-term regional specialties (such as West Country Farmhouse Cheddar) rather than the common name itself (cheddar). The EU bullies its trading partners into applying its approach to the detriment of U.S. dairy exporters, creating a global problem.



We ask that the Administration actively counter these efforts by securing from our trading partners confirmations of U.S. companies' rights to continue to use specific widely used terms. In addition, we urge an examination of the degree to which these EU-driven measures are inconsistent with the WTO Agreement on Technical Barriers to Trade (TBT) and trade agreement commitments of U.S. trading partners.

Resolve Non-Tariff Barriers to Trade

American agriculture has been contending with a growing trend of unjustified and unscientific barriers to our exports in a variety of markets. Overly burdensome requirements and those unsupported by sound science are a challenge for many of our dairy exports. We urge the incoming Administration to develop a clear plan for leveraging both multilateral (e.g., WTO procedures) and bilateral tools (e.g., FTA dispute settlements, GSP reviews) to drive compliance by our trading partners and open markets for U.S. products. India's insistence on unscientific dairy import requirements, and its move just last year to extend that mandate to even more U.S. dairy products, is a prime example of this challenge.

Foster Science-Based Guidelines in Multilateral Organizations and Guidelines

We urge robust U.S. leadership in shaping the UN Food Systems Summit (FSS) preparations. Given that the FSS is being touted as an opportunity to radically reform how we produce and consume food, the Summit's global recommendations could have significant and lasting impacts on U.S. agricultural production and exports around the world that would not reflect science, but activism.

We urge a focus on assessing what is working well and what requires improvement to ensure international organizations work on core mandate areas and promulgate recommendations with robust scientific basis. Multilateral organizations that make policy recommendations and set technical standards and guidelines form the bedrock upon which U.S. food and agricultural exporters rely as they meet the needs for American-produced products overseas. Those multilateral organizations and standard setting bodies of greatest relevance to the U.S. dairy industry are the UN Food and Agriculture Organization (FAO), including its Committee on World Food Security (CFS); the World Health Organization (WHO); Codex Alimentarius (Codex); and the World Organization for Animal Health (OIE).

Codex and OIE have historically played indispensable roles in formulating science-based standards and guidelines pertaining to food safety, fair trade practices, product standards, and animal health and welfare issues; and they still do today. We urge a continued, robust focus on these organizations. It will be increasingly essential that the United States continue to insist that these organizations develop and recommend science-based standards in light of growing political pressure on them by some regions and the tremendous upheaval that unscientific standards can impose on U.S. food and agricultural trade.

With respect to the FAO and WHO, these organizations are engaged in ample work that impacts national food and agriculture policy at present yet have not always shown the same strong commitment to grounding their recommendations and guidelines in sound science, nor to evaluating the real-world impacts of their policy prescriptions.



Although we remain concern about some of the actions and priorities of the World Health Organization (WHO), we support the Administration’s decision to rejoin the WHO to pursue a long overdue reform agenda that could focus WHO staffing and spending on its core mission areas, enhance transparency and participation of all stakeholders, reassert the importance of science-based decision-making, and ensure that the WHO secretariat acts at the direction of WHO member states.

Points of Contact:

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