NMPF
NATIONAL MILK PRODUCERS FEDERATION

Testimony of Ambassador Gregg Doud
President and CEO
National Milk Producers Federation

Before the House Ways and Means Subcommittee on Trade
February 25, 2025

Introduction

Chairman Smith, Ranking Member Sánchez, members of the committee, thank you for the opportunity to testify before you today as the committee reviews the state of U.S trade enforcement, and its impact on America's producers and exporters.

My name is Gregg Doud, and I am proud to serve as President & CEO of the National Milk Producers Federation. Organized in 1916, NMPF is the farm commodity organization representing dairy farmers and the cooperatives they own and operate throughout the United States. As their voice in Washington, we advocate for policies that will foster an economic and political climate where our members can prosper.

I have previously served as the Chief Agricultural Negotiator within the Office of the U.S. Trade Representative in the previous Trump administration as well as a Senior Professional Staff for agricultural trade issues on the Senate Agriculture Committee for Senator Roberts and as a trade advisory committee member during the negotiation of eight free trade agreements. I am testifying before you today to discuss the importance of the U.S. government enforcing its trade agreements to the dairy producers, workers, and exporters who rely on exports to grow and thrive.

U.S. Dairy Depends on Trade

Exports play an indispensable role in supporting America's dairy farmers and processing manufacturing jobs across the nation. Last year, the U.S. dairy industry exported close to $8.3 billion in dairy products overseas, equivalent to 18 percent of total U.S. milk production. The United States also imported $5.4 billion in dairy products last year with $2.9 billion of this coming from the European Union.

Existing U.S. trade agreements have played a major role in creating the current landscape that's allowed U.S. dairy exports to increase by roughly $7 billion in the past 20 years. In fact, we run a dairy trade surplus with each of our bilateral trade deal partners.

The industry has reached these heights despite being forced to operate at a significant disadvantage to our international competitors. For well over a decade now, the United States has not kept pace in expanding market access opportunities, while the Europe Union and New Zealand have been successfully negotiating trade agreements with key dairy importing countries. For American producers and exporters, that often means we have to contend with higher tariffs and burdensome trade barriers.

We need to ensure that today's policies also create ample opportunities for U.S. agricultural export expansion in the coming decades as well, especially to make sure we can keep up with our competitors.

NMPF is pleased that President Trump's Jan. 20 Executive Order on an America First trade policy includes a directive to USTR to make recommendations on countries with which the United States can pursue bilateral or sectoral agreements. We see this as a key step toward helping bridge the growing tariff gaps facing U.S. exporters. Whether the U.S. pursues broader agreements – such as the one President Trump initiated pursuit of with the UK in 2018 – or more targeted ones such as the U.S.-Japan Phase One agreement, tariff reductions for our dairy exporters are essential to fair global competition, particularly in regions such as Southeast Asia, the Middle East and the United Kingdom.

With global demand for dairy expected to continue to grow, American farmers and manufacturers are relying on Congress and the Administration to work together to enforce U.S. trade agreements and ensure a more level playing field for American-made and processed exports to compete in international markets.

Current State of Play Across Priority Enforcement Regions

While U.S. dairy proudly exports to markets in all corners of the globe, trade policy with three regions has an outsized impact on the economic health of the industry. In each of these areas, trade enforcement and additional trade negotiations will have a big role to play in creating further opportunities for American farmers and food manufacturers.

North America

Roughly 44 percent of total U.S. dairy exports, worth nearly $3.7 billion, are shipped to our nearest neighbors: Canada and Mexico.

Mexico is an important trading partner for nearly every dairy product the U.S. exports – representing 36 percent of total U.S. consumer dairy product exports (products like cheese, butter and fluid milk) and 28 percent of total U.S. dairy ingredient exports (products like whey protein, nonfat dry milk and whole milk powder). Nearly 40 percent of all U.S. cheese exports and over half of all nonfat dry milk exports are headed to Mexico. Total U.S. dairy exports to Mexico are worth around $2.4 billion. It is quite simply the United States' single most important dairy trading partner.

Canada is also an important market for U.S. dairy exports with sales of $1.2 billion last year, but it's also a much more complex one. A sizable portion of U.S. dairy exports to Canada merely enter Canada for further food processing, only to return to the U.S. in the form of various finished foods for consumption in this market. That makes it quite different from virtually all other U.S. dairy export destinations. Sales to those other markets permanently remove the exported dairy from the U.S. market, whereas Canada ultimately exports it back here to us.

That's why getting USMCA dairy market access right is so important – it's the best way for us to sell dairy that actually reaches Canadian consumers. Unfortunately, as detailed below, the Canadian government has worked hard to undermine the intent of USMCA's dairy terms. Targeted negotiations to address those issues are a vital element of the USMCA review.

To that end, we urge Congress and the Administration to utilize a thoughtful and tailored approach to dealing with the outstanding issues with Canada while preserving dairy trade flows with our partners in Mexico. Maintaining competitive access to the Mexican market and harnessing the full promise of USMCA's dairy provisions with Canada will support the overall growth and success of the U.S. dairy industry.

USMCA Enforcement Areas:

<u>Canada</u> – Ripe for Targeted Reforms

We encourage Congress to work closely with the Administration as the USMCA review begins. We need to ensure Canada finally holds up its end of the bargain on dairy in USMCA by fixing both our export issues into Canada and also the excessive offloading of artificially low-price Canadian dairy protein into the U.S. and global markets.

<u>TRQ Manipulation</u>

Unfortunately, Canada has a long history of attempting to undermine previously agreed-to market access. USMCA strived to make headway into this traditionally restrictive market, but Canada has repeatedly failed to comply with dairy market access negotiated under the agreement.

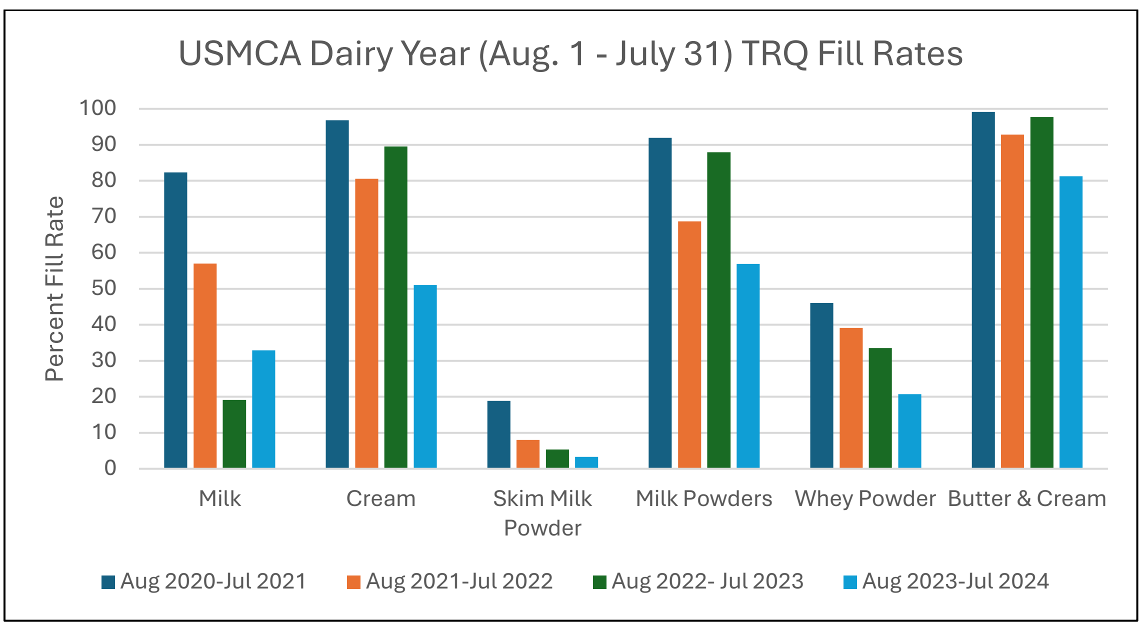
Canada has manipulated its dairy tariff-rate quotas (TRQ) policies to ensure low fill rates across most product categories for U.S. exporters while also depressing the value of product imported under the TRQs that are filling. At its core, the issue revolves around two main aspects.

1. Canada reserves the overwhelming shares of the quotas for its own domestic dairy processors of the product in question (i.e. most butter TRQs go to Canadian dairy companies making butter), which effectively forces U.S. exporters to sell to their competitors. Retailers are entirely excluded from this process while importers/distributors are relegated to a very small sliver of the quota access. In order to award the quotas to its processors, Canada is using administrative procedures that are neither fair nor equitable.

2. Canada's process for reallocation TRQs from year to year does not gradually shift the quotas toward firms that will make better use of them. There are no penalties for sitting on the TRQ volumes most of the year and then turning them back in with a few months to go. This ensures that the flawed allocation system stays entrenched, rather than improving over time.

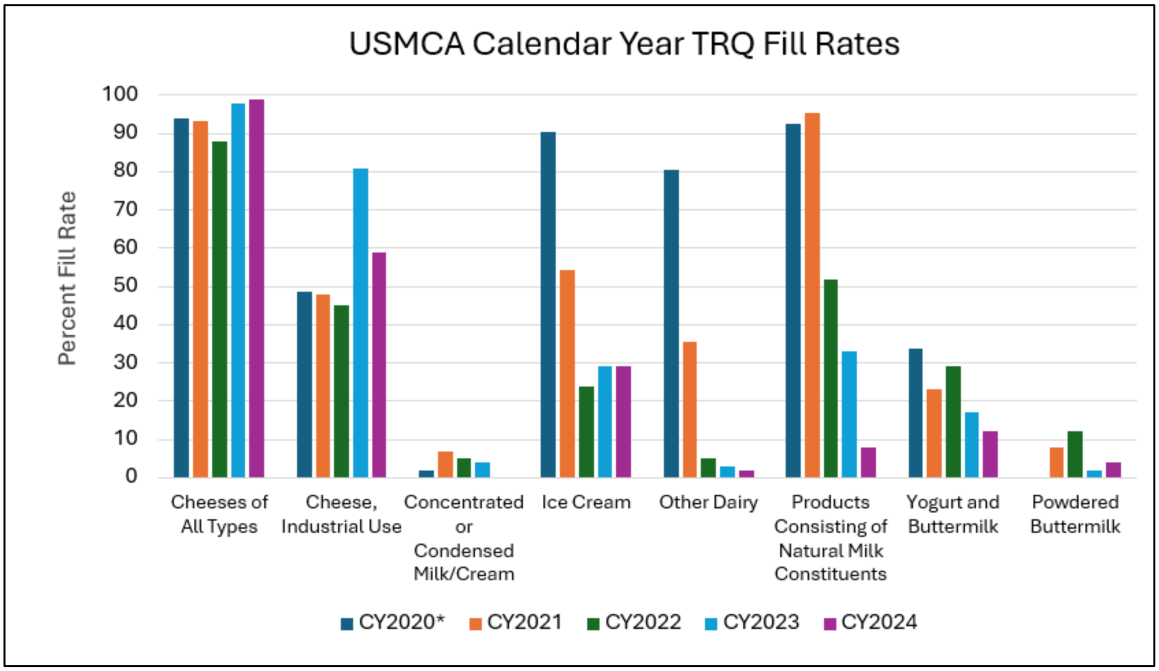
As a result of these issues, U.S. dairy exporters are cheated out of the market access benefits promised to them by USMCA. The charts below illustrate the shortfalls in TRQ volumes.

<u>Figure 1: Canada USMCA Dairy Year TRQ Fill Rates</u>



Source: National Milk Producers Federation, Global Affairs Canada

Figure 2: Canada USMCA Calendar Year TRQ Fill Rates



Source: National Milk Producers Federation, Global Affairs Canada

To address these intentional shortcomings, Canada should be required to provide "back pay" to provide the access it has refused to offer these past five years, and also reform its TRQ administration procedures to address the problems cited.

NMPF greatly appreciated the bipartisan support it received from USTR and many members of Congress throughout the USMCA dispute panel process from 2022-2023. The nonsensical adverse ruling that allowed Canada to continue to ignore its USMCA obligations illustrates the value of the six-year review process to ensure that the agreement is operating as intended, and that U.S. dairy farmers and manufacturers can reap the full benefit of USMCA.

Protein Export Loophole

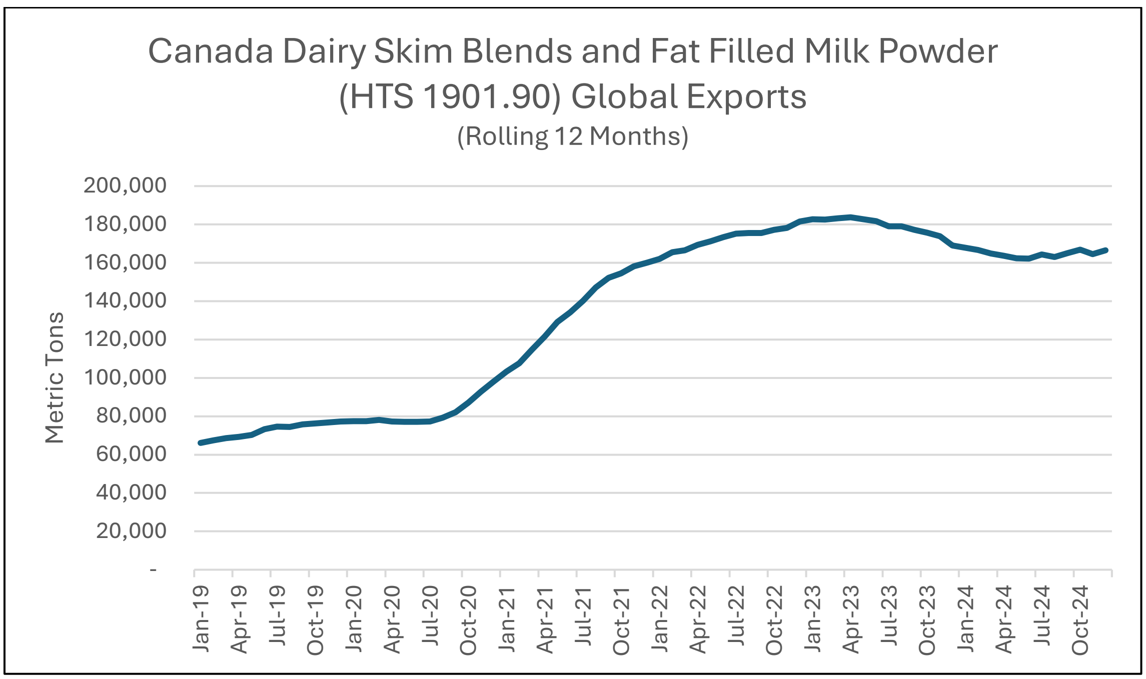
Shortly before the negotiation of USMCA, Canada had begun to routinely offload excessive quantities of dairy protein onto global markets at artificially low prices. This hammered U.S. prices and exports. It caught President Trump's attention and was a key part of why he was adamant that new export access wasn't enough; changes to Canada's dairy exports were essential to get in USMCA as well.

USMCA sought to fix this issue by creating export disciplines on a variety of Canadian dairy protein exports. The products listed in USMCA's dairy export disciplines text are skim milk powder, milk protein concentrate (of tariff code 040490) and infant formula.

Regrettably but predictably, Canada has systemically circumvented the dairy protein export caps by shifting production to different tariff codes. Canada's escalation of this tactic threatens to render USMCA dairy protein export disciplines a hollow formality. That would allow Canada to keep growing its dairy production and offloading the excess quantities of dairy protein onto the U.S. and other markets – exactly the problem that USMCA negotiations sought to initially address.

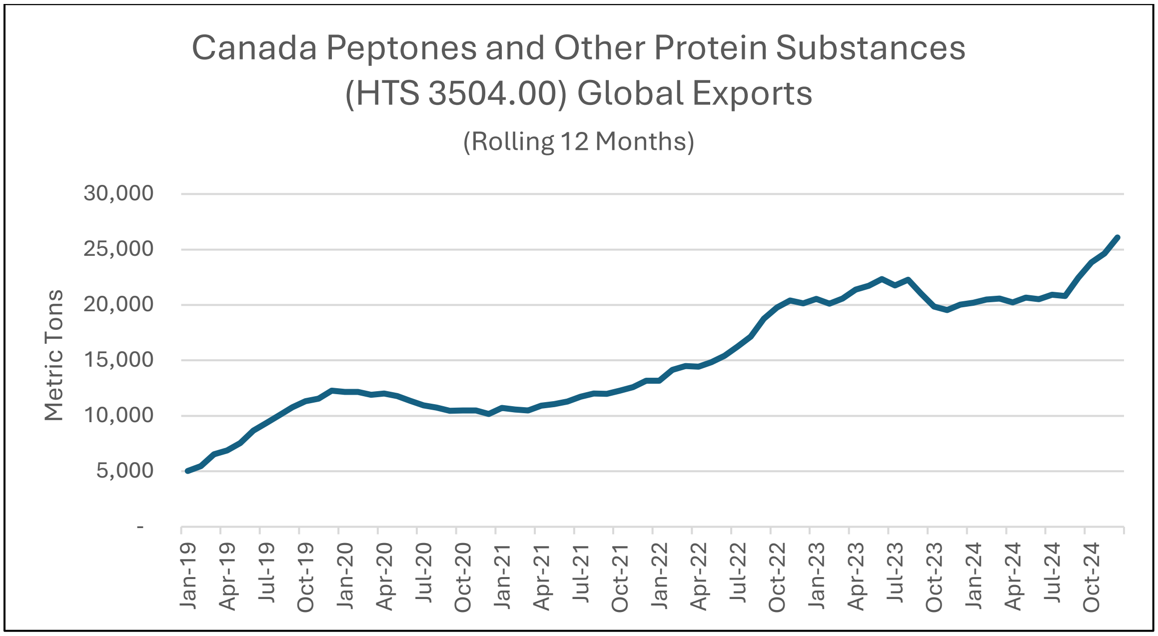
The charts below provide a few examples of the noticeable uptick in other dairy-containing lines that has occurred since USMCA's implementation.

Figure 3: Canada Dairy Skim Blends and Fat Filled Milk Powder Global Exports



Source: National Milk Producers Federation, Trade Data Monitor

Figure 4: Canada Peptones and Other Protein Substances Global Exports



Source: National Milk Producers Federation, Trade Data Monitor

To curb this, the U.S. must take steps with Canada to close these loopholes to ensure that Canada manages its total dairy protein exports – one of the major goals of USMCA.

Mexico: A Positive Case Study

In contrast to Canada, USMCA's dispute settlement system appears to be working much better to help ensure Mexico follows the agreement's sanitary and phytosanitary (SPS) commitments.

In 2023, the U.S. filed a formal dispute against Mexico, alleging that its new biotechnology measures concerning genetically engineered corn violated USMCA's agreed-to SPS provisions. After a public hearing and several rounds of written comments, the U.S. prevailed in proving that Mexico's regulations were not based on scientific principles or international standards. While certain implementation steps remain for Mexico to take, the decision should ensure that U.S. producers and exporters will continue to have full and fair access to the Mexican market.

This victory for fair and science-based trade in the Mexico corn case points to the way that USMCA and its dispute settlement system was designed to work.

China

While China has become a strong and positive trade partner for U.S. dairy with imports hitting a record $803 million in 2022, its appetite for U.S. dairy products like milk powder, cheese and whey slipped back to $584 million last year and has certainly not yet reached its potential. For comparison, last year New Zealand and Europe exported $660 million in cheese to China. The U.S. is a much larger cheese producer and has new cheese production capacity coming online in the next few years. This creates a sizable opportunity for us if China could be persuaded to shift more toward U.S. sourcing.

Historically, our issues with China have been deep and serious. To improve upon this extremely important trading relationship, we have got to keep talking with each other to find solutions. The U.S.-China Phase One Agreement was an important first step toward that goal – but it is certainly not the final destination.

What happens in China also impacts us in ways that go beyond merely our direct exports to China. For instance, China's overall imports of dairy products have declined over the last three years due to a slow-down in their economy. In response to lower Chinese purchases of whole milk powder, New Zealand suppliers have channeled raw milk into more butter and skim milk powder (SMP) production, and prioritized export markets outside of China – including a substantial increase in butter exports to the United States and Mexico. These repercussions have intensified competition for our exporters in Southeast Asia and Latin American markets. We should bear this in mind as the U.S. and China work to navigate how to create a more balanced relationship in the future.

U.S.-China Phase One Agreement Dairy Enforcement Areas

The 2020 Phase One trade agreement between the U.S. and China made important progress on a number of key dairy nontariff issues, including:

- Tackling facility and product registration steps that had stymied firms seeking to export to China for several years;
- Improving the regulatory pathway for exports of infant formula and fluid milk (including extended shelf-life milk) to China;
- Committing to increased purchases of U.S. agricultural goods, including dairy; and
- Establishing protection for common food names threatened by the misuse of geographical indications.

While there remains ample room to grow purchases of U.S. dairy, as noted above, overall the agreement has been quite positive for dairy. Even robust agreements merit from review to assess how they are working through. To that end, there are three areas where the U.S. government should lean on China to fully fulfill its obligations under this agreement.

Timely Facility Listing Updates

The Phase One deal specified that China must register and publish an updated list of approved U.S. dairy facilities, and allow imports from those facilities, within 20 working days of notification of any new facilities by the U.S. Food and Drug Administration. However, U.S. companies are currently experiencing delays of many months. Prior updates have at times occurred only on the very day that the old registration was due to expire, creating sizable business uncertainty for both U.S. and Chinese companies. China should adhere to the 20 working day timeframe for all dairy facility updates that it committed to under the agreement.

Protecting Common Food and Beverage Names

Despite publicly committing to protecting common names as part of the intellectual property section of the U.S.-China Phase One Agreement, China's intellectual property office (IPO) has taken steps that would grant EU exporters monopoly rights over certain widely used terms, (including parmesan) at the expense of other trading partners, Chinese buyers and, ultimately, Chinese consumers. Specifically, China's AQSIQ division had previously determined that the GI Parmigiano Reggiano did not extend to restrictions on parmesan. Despite this China IPO has taken the opposite viewpoint in recent years. China should uphold its Phase One commitment to protect common names and ensure that China IPO takes actions that are consistent with prior Chinese government determinations on common names.

Encouraging Additional Purchases of U.S. Goods

Under the deal, China agreed to increase purchases of certain U.S. goods. China came relatively close to meeting those targets for agriculture before pandemic conditions prevailed. For dairy though, there has not been a significant increase in purchases of major dairy commodities from the U.S. NMPF looks forward to working with Congress and the Administration to ensure that China follows through on additional procurements of U.S. cheese and dairy products.

European Union

The dairy trade relationship between the United States and European Union is largely defined by the gaping bilateral gap in sales and opportunities between our two markets. The scale is staggering: European dairy producers export **$3 billion** worth of products to the United States, while U.S. dairy producers export only **$167 million** in dairy products to the EU. Tragically, dairy isn't alone. In 2024, the total U.S. ag trade deficit with the EU was a gigantic $23.6 billion!

Beyond this astonishing trade deficit, the EU has grown accustomed to seeking to rewrite the trade and agricultural policies of other countries to its own benefit – and the United States' detriment. In doing so, the EU is advancing an unfair and unscientific approach that significantly handcuffs the full potential of U.S. dairy.

The U.S government needs to fundamentally reset its agricultural trade relationship with the EU. Although every country has the right to form their own agriculture policy, those policies cannot act as thinly disguised barriers to trade. Yet all too often, this is what EU policy-making entails. Abusing agricultural policies to prevent the import of safe products or to encourage other countries to apply policies thwarting trade clearly crosses the line from appropriate domestic policy tools to unjustifiable barriers to trade.

The EU has shown no inclination to make reforms to its protectionist and trade-distorting regulatory policies. In fact, it appears poised to take even more restrictive trade actions. The U.S. needs to leverage the EU's reliance on our food and agriculture market more effectively to shift the EU's approach to import policy and empower U.S. exporters to grow their businesses in Europe.

The U.S. relationship with the EU on agriculture is precisely the sort of deeply flawed, consistently imbalanced dynamic that a reciprocal trade policy should focus on addressing.

European Union Enforcement Action Opportunities

While governments around the world have enacted various barriers to trade, the European Union is the worst and most impactful offender. Its policies drive the overwhelming trade deficit outlined above and must be addressed by the U.S. government through a comprehensive reset of the trade relationship.

EU-Specific TRQs

European producers benefit from multiple EU-specific dairy tariff-rate quotas (TRQs) for exporting to the U.S. market. On the other hand, there are no U.S.-specific dairy TRQs for access to the European market. This is just one example of how European exporters enjoy expansive access to the American market, while the EU goes to great lengths to handcuff U.S. exports.

Regulatory Challenges

The EU has continually thwarted free trade through the use of constantly changing regulations that make sales in the European market needlessly complicated, costly, unpredictable or even illegal. When challenged about the ample hurdles facing U.S. exporters to the EU, EU SANTE officials have declared that there are no barriers to trade, merely EU requirements. These EU requirements, however, seek to impose detailed process-based EU procedures regarding how products should be produced onto imported products. The U.S. in contrast, focuses primarily on the outcomes of the dairy being imported into the U.S. U.S. requirements focus on whether the cheese or milk powder is safe for human consumption and not at risk of introducing a contagious animal disease into this country. EU requirements focus on how a dairy farmer farms even if the final product shipped complies with outcome-based EU food safety requirements.

This EU approach of dictating to the world how to farm is growing and is entirely unsustainable. The U.S. must reject it.

A few current examples include:

- Dairy & Composite Certificate Requirements

  In late 2020 the European Union announced a myriad of changes to its import certificates for dairy, composite products, and other U.S. exports that included significant new animal health requirements. The new requirements went beyond the animal disease status of the exporting country to include new demands on on-farm practices. The European Union's increasing insistence that its trading partners must mirror process requirements, not simply outcome requirements, fails to comply with its trade obligations and needlessly increases the volatility of supplying the EU market.

- Anti-Microbial Resistance "Reciprocity" Requirement

  In January 2019, the European Union included a requirement in Regulation 2019/6 to restrict the use of certain antimicrobials in food production and demanded that all countries exporting to the European Union also restrict the on-farm use of antimicrobials in line with this legislation. The European Union has since continued to advance this trade-distorting regulation that fails to comply with WTO rules. In July 2022, the European Union published its list of antimicrobials restricted to use in humans. While the current list will allow trade to continue, further expansions of the list could risk cutting on trade merely due to what U.S. veterinarians may prescribe to treat U.S. cows.

These types of overly prescriptive regulations force U.S. producers and exporters to jump through hoops to access the European market. Even then, regulators often nitpick paperwork issues on certificates, adding another burdensome layer.

This is in sharp contrast to EU exports to the U.S., which operate quite smoothly, simply, and consistently.

Common Food Names

Over the past decade-plus, the EU has abused and misused geographical indication rules to target dairy products by banning the use of common names, like parmesan, havarti, and feta. By monopolizing generic food and beverage terms, the EU essentially strips the ability of U.S. dairy producers to sell their products in the European Union, as well as in key export markets where the EU has negotiated protections for its illegitimate GIs.

The Administration and Congress should firmly reject the continuation of the EU's abusive and trade-distorting common name restrictions and proactively protect U.S. exporters' rights to use common names in export markets.

NMPF and its allied organizations, the U.S. Dairy Export Council and Consortium for Common Food Names, have focused on resolving this issue through agricultural market access negotiations and engagement with Congress and the Administration. In 2023, NMPF and USDEC helped champion the introduction of the Safeguarding American Value-Added Exports (SAVE) Act that would direct the U.S. government to proactively negotiate protections for common food and beverage names with trading partners. We strongly encourage Congress to pass the SAVE Act as part of the next farm bill.

In addition to those critical regions, another trading partners merits this Committee's attention with respect to trade enforcement priorities, particularly in light of the new bilateral trade negotiations announced this month, and that is India.

India

Last year the United States exported $53 million of U.S. dairy products to India, a fraction of the potential opportunity that we see in this market were U.S. exports not held back by artificial barriers to trade. There remains a strong appetite in the U.S. dairy industry to gain access to this sizable market, particularly as India's demand for high-quality dairy outstrips present supply.

India maintains high tariffs on most dairy products. In addition, since 2003, most American dairy exports have been blocked from the Indian market due to high tariffs and unscientific and overly burdensome Indian dairy import certificate requirements. Despite over two decades of the United States government providing considerable scientific data documenting the safety of U.S. dairy products and proposing various resolution pathways, the Indian government has persisted in refusing access for the vast majority of U.S. dairy products due to certification requirements for dairy cattle feed that are not science-based nor aligned with World Organization for Animal Health guidance. Instead, every few years India has introduced additional restrictions by expanding its interpretation of the scope of products affected by its unfounded dairy certificate requirements and, most recently, by introducing additional new attestations.

India Enforcement Action
USTR revoked India's Generalized System of Preferences (GSP) eligibility in 2019 due to India's failure to meet its obligations under the program to "provide equitable and reasonable access to [its] market." We encourage the United States government to address India's continued refusal to provide dairy market access by removing blatantly protectionist certification requirements. Should Congress reauthorize the GSP program, we urge USTR to ensure India meets its market access obligations under the program prior to restoring any GSP benefits to India.

In addition, as the Administration moves forward with both the U.S.-India bilateral trade negotiations and its Fair and Reciprocal Plan for trade, we strongly recommend that India's high barriers to market entry for U.S. dairy and agricultural products be prioritized for striking a reciprocal tariff balance that takes into full account the nontariff issues facing U.S. exporters.

Landscape & Future Outlook

Latin America

NMPF urges the Administration and Congress to reestablish strong bonds with Latin America to revitalize our presence in this region and guard against the rise of anti-American policies at a time when China is increasingly investing in this hemisphere. The U.S. should be expanding its presence here to take advantage of the trade agreements in place while also working to establish new deals to counter the European Union's aggressive push for trade-distorting regulatory policies and common name restrictions.

NMPF has worked hard to cultivate partnerships with allied agriculture and dairy organizations throughout the world, but particularly in Latin America. Combined with past trade agreements negotiated by the U.S. government, we have created fertile commercial opportunities in the region – particularly Mexico, Central America, and the Caribbean. On January 1 of this year, we celebrated the phasing out of all tariffs on dairy products under the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR).

Given the proximity and relationships, this is ground that we should take and hold in terms of market share. It won't be easy, however. Over the last couple of years, Latin America has become a battleground region in the fight over free trade, with local producers driving anti-import sentiment.

For example, Ecuador has tried multiple times to advance legislation that would ban milk powder imports, and in Peru, the domestic producers urged the government to prohibit use of the term "milk" on evaporated products produced with milk powder to limit imports.

Likewise, there are numerous other cases from Colombia to Brazil to Mexico where trade disruptions have loomed in recent years.

Adding to the challenges are the fact that New Zealand and the EU are targeting these markets, and the relative strength of the U.S. dollar is discouraging imports from America. All of this is why the U.S. government needs to actively work to ensure that our trade partners meet their commitments and that any enforcement actions in the region are pursued in a targeted manner as we work to deepen opportunities and relationships in this half of the world.

Market Growth

As I noted at the outset, U.S. bilateral trade agreements have consistently delivered for American dairy producers and manufacturers. Many of today's successes and additional growth opportunities have been built on those agreements.

But no industry can sit back and rest on its heels. Just as the U.S. paved the pathway for today's $8 billion in dairy exports with past deals, it's critical that we look ahead another decade or two and plan for what we'll need in the future as well. To keep up with our competitors from Europe and New Zealand, U.S. dairy exporters need new trade deals that cut tariffs and tackle nontariff trade barriers.

And of course, enforcement of those deals is paramount. Whether the U.S. government prioritizes the enforcement the trade agreements it has negotiated, and addresses trade barriers targeting U.S. exports, will determine whether American farmers and workers will actually benefit from the market access that has and will be promised.

As I mentioned previously, we are encouraged that the Trump Administration's executive order on trade is exploring many of the fairness and competitiveness issues laid out in this testimony. We are hopeful that the Administration pursues a more level trade landscape on behalf of U.S. agriculture and look forward to working with Congress and the Administration to expand market access opportunities and improve the competitive landscape for the U.S. dairy industry.

Thank you again for the opportunity to testify before you. I am happy to answer any questions you may have.