

**Joint Comments by the
National Milk Producers Federation and the
U.S. Dairy Export Council to the
Office of the U.S. Trade Representative
On Russia's WTO Implementation
Docket Number USTR-2015-0015
September 28, 2015**

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 Russia's implementation of its WTO obligations.

NMPF and USDEC have deep concerns regarding the impact of Russia's current ban of the import of dairy products from the U.S., European Union (EU) and Australia in light of the impact this has contributed to global dairy markets. We are not unaware, however, that the nature of the ban from a WTO compliance perspective remains in question. As we wait for Russia to remove this barrier to trade, we have serious concerns about the fact that the U.S. is not taking the necessary steps to prepare for the eventual lifting of the ban.

Background:

U.S. dairy products have been excluded from the Russian market since the Fall of 2010. In 2010, U.S. dairy exports had reached a high of \$81 million, making Russia the 11th largest market for U.S. dairy products that year.

Prior to that abrupt market closure in Fall 2010, Russia was an increasingly important market for U.S. dairy exports. U.S. dairy exports to Russia in value terms increased more than 1,600% over the five year period of 2006 – 2010. This reflected Russia's long-standing role as one of the world's largest dairy import markets, particularly for butter and cheese. In 2013, the last full year prior to the Russian ban on imports from many leading dairy suppliers, Russia imported a total of \$2.9 billion from non-Customs Union partners, as well as additional sizable sales from its Customs Union partner Belarus.

In spring 2014 the U.S. successfully concluded a key element of the work involved in seeking to reestablish access to the Russian dairy market when it reached agreement with the Russians on a revised dairy certificate. Russia's maintenance of a requirement that dairy facilities shipping to Russia be registered on a government-assembled list prevented trade from resuming in the interim period between when the certificate disagreements were resolved this spring and when the Russian ban on U.S. agricultural imports took effect in August 2014.

Comments:

NMPF and USDEC condemn the Russian ban on U.S., EU and Australian dairy imports. This ban has impacted U.S. dairy exports to other markets by forcing a shift of dairy supplies from the EU into other global markets where those products are now contributing to heightened

competition for buyers in those other markets. Russia's outright ban on products from the U.S. and other major suppliers for purely political reasons appears to be in violation of its WTO commitments.

However, the reality is that if the ban were lifted tomorrow the U.S. dairy industry would still be cut off from this market due to the facility listing requirement Russia is maintaining in violation of its WTO accession commitments. While we view it as entirely inappropriate for Russia to be flouting these commitments, to our knowledge the U.S. has to date not moved to bring a WTO dispute settlement case against Russia due to its maintenance of this requirement. Until the U.S. is prepared to take the necessary steps to seek removal of the Russian listing requirement such as by pursuing a WTO case, the U.S. must find a way to live with this requirement.

We are concerned that the U.S. government has not yet even initiated the process necessary to create a U.S. facility list that would allow for compliance with the de-facto Russian requirement for such a list. We would like to formally reiterate our request that USTR works with FDA and USDA to take the steps necessary to start this lengthy process. The creation of a similar list for China has taken two years and running.

While we recognize that dairy staff time within FDA's Center for Food Safety and Applied Nutrition is currently rightfully devoted in large part to ensuring continued access to the Chinese dairy market, it is our understanding that initial stage demands on CFSAN staff time would be minimal and that the portion of the project requiring substantial staff hours by CFSAN staff could be activated at a later point. In the interim, the request to create a facility list could be navigating the lengthy review by other U.S. government staff that is required by the Paperwork Reduction Act process.

Summary:

We cannot afford to be in a position in the future where our key competitors regain access to the Russian market while the U.S. remains shut out. The U.S. should use this period to ensure that we have taken all the steps necessary on our end to be prepared to resume shipping to this market when the ban is ultimately lifted. We do not view such pragmatic preparatory efforts as incompatible with continuing to seek Russian compliance with its WTO obligations, including its commitment to abolish its listing requirements.

We appreciate the opportunity to submit comments on our concerns regarding Russia's WTO compliance.

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