



April 19, 2022

Supply-Managed Trade Controls Division
Global Affairs Canada
111 Sussex Drive
Ottawa Ontario K1A 0G2

Dear Sirs/Madams,

The National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC) appreciate the opportunity to provide our views on the Canada-United States-Mexico Agreement (CUSMA) dairy tariff rate quotas (TRQs) panel report implementation.

NMPF is the United States' national farm commodity organization that represents dairy farmers and the dairy cooperative marketing associations they own and operate throughout the United States. 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.

Canada's proposed allocation and administration policy changes in response to the CUSMA report continue to fall woefully short of full compliance with Canada's CUSMA obligations. This has consequences not only for the agreed-upon CUSMA benefits denied U.S. and Canadian stakeholders, but also for the credibility of CUSMA enforcement procedures undergoing their first test in this dispute and for the success of CUSMA itself. We urge Canada to consider its larger interest in the success of the CUSMA and modify its dairy TRQ allocation and administration policies to give effect, in good faith, to Canada's CUSMA commitments.

Canada can do so through several changes to its proposal including the following provisions:

First, Canada is not permitted under CUSMA to exclude parties active in the Canadian food and agriculture sector from access to the TRQs. Canada's proposal directly excludes retailers and food service operators from access to individual product quotas by limiting that access to processors and distributors. Canada is likewise excluding further processors from access to various TRQs. There is no basis for excluding applicants from these groups and Canada should discontinue doing so.

Second, Canada's proposed allocation methodology will continue to allocate quota overwhelmingly to processors, notwithstanding Canada's CUSMA commitments not to do so. Canada's methodology thus continues to require that U.S. exporters sell to their Canadian competitors, who have limited incentives to fill quotas and none to maximize their value. By basing its allocation methodology on sales of the specific product covered by the TRQ, Canada is once again delivering the quotas to the handful of Canadian dairy processors who dominate



dairy manufacture and sales in its market. The proposal risks incentivizing further monopolistic behavior by a small number of processors, leading to a greater concentration of quota held by them, and significant uncertainty for U.S. exporters. These problems will be compounded by the lack of transparency (and concurrent potential for manipulation) in Canada's system both regarding market sales data and quota allocation by quota holder.

The above deficiencies in the sales-based allocation system will be even further heightened by Canada's exclusion of distributor-to-distributor sales and sales to consumers from an applicant's total sales figure, further tipping the calculation in favor of the market-dominant processors in Canada. Canada should modify its allocation system to provide fair opportunities to all applicants active in the Canadian market, and to new applicants, as required under CUSMA.

Third, we urge Canada to adopt more stringent terms for returns and penalties. Canada should, for example, penalize chronic returns and transfers, as well as non-use, to ensure that those receiving quota allocations actually intend to fill them, and actually do fill them.

Again, thank you for the opportunity to provide comments through this consultation process. Significant further reforms to Canada's dairy TRQ process must be made in order to fulfill Canada's CUSMA commitments. Doing so is not only in the best interests of Canadian consumers who would gain a wider spectrum of product choice, but also in the best interest of the many sectors of the Canadian economy that depend upon faithful CUSMA implementation by both Canada and its trading partners.

Sincerely,

A handwritten signature in black ink, appearing to read "Jaime Castaneda".

Jaime Castaneda
Executive Vice President
Policy Development & Strategy
National Milk Producers Federation &
U.S. Dairy Export Council