



U.S. DAIRY
EXPORT COUNCIL



NMPF
NATIONAL MILK
PRODUCERS FEDERATION

**Comments Regarding Foreign Trade Barriers to U.S. Exports for 2026 Reporting
by the National Milk Producers Federation
and the U.S. Dairy Export Council**

Docket Number USTR-2025-0016

October 30, 2025

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Introduction

The National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC) submit these comments in response to the notice of request for public comments concerning the National Trade Estimate Report on Significant Foreign Trade Barriers (Docket Number USTR-2025-0016). NMPF and USDEC appreciate the opportunity to present their views on this important annual report.

NMPF is the 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. 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.

Exports have become extremely important to the U.S. dairy industry. Last year the United States exported \$8.3 billion in dairy products worldwide, equivalent to approximately 17% of total U.S. milk production in 2024. Those sales play an indispensable role in supporting the health of America's dairy farms as well as the manufacturing jobs of dairy processors. Impairing export sales therefore harms not only farmers, but also workers in companies supplying inputs and services, and downstream processing plant jobs, as well as in cities with large port facilities heavily dependent on trade.

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 that has benefited dairy farmers and manufacturers alike, strong enforcement of existing trade agreements and the pursuit of new ones is of the utmost importance. **We strongly support the Administration's ongoing pursuit of new agreements that focus on expanding export market access for American-made dairy products in order to level the playing field our producers face against other major dairy exporters.**

Beginning with the implementation of the North American Free Trade Agreement (NAFTA) in 1994, bilateral trade agreements have enabled U.S. dairy exporters to compete on a more level playing field or even at an advantage with international competitors in terms of tariff access, removal of non-tariff barriers and clear and consistent rules for trade. By way of perspective: in 1993, the year before NAFTA, the United States sold just \$618 million worth of dairy products overseas; in 2024, the United States sold over \$5.7 billion to its bilateral trade agreement partners alone.

NMPF and USDEC urge the Administration to continue its focus on expanding market access opportunities for American dairy exports. The Administration's ongoing pursuit of new market access opportunities brings significant promise for additional export opportunities,

particularly as the United States faces a widening tariff disparity compared to other major suppliers from Europe and Oceania. **NMPF and USDEC strongly support the continued pursuit of agreements with key markets in which the United States competes head-to-head with other major dairy suppliers from the European Union and New Zealand.**

The removal of tariff and nontariff barriers, including the misuse of geographical indications (GIs) to restrict common food names, that constrain U.S. dairy exports are both important elements to expanding global opportunities for American-made products. Policies aimed at such pro-trade outcomes would drive further returns to the U.S. farming and processing sectors, as well as the broader rural communities in which they operate across the country.

Listed here are some of the major trade barriers confronting the U.S. dairy industry. This is not an exhaustive list of all ongoing issues that are of concern to the industry. Rather, it is a summary of the highest priority issues dairy exporters presently face in key markets, with an emphasis on those with which the United States has an opportunity to pursue changes in the years to come. In order to organize the comments most effectively, they are outlined below primarily on a country-by-country basis unless a common topic pertains to multiple regions.

Country Specific Issues

Australia

Australia is an important export market for U.S. dairy products, thanks in large part to the U.S.-Australia FTA. Last year the United States exported \$174 million in dairy exports to Australia, \$111 million of which was cheese. However, several generic terms of interest that U.S. companies use to market their products, such as "parmesan" and "asiago," could be compromised because of Australia's ongoing trade negotiations with the European Union (EU).

Negotiations between the European Union and Australia initially collapsed in 2023, primarily due to disagreements over agricultural market access and the misuse of geographical indications (GIs). The European Union's demands would introduce prohibitions in Australia on the import and production of various non-EU cheeses. The negotiations have since been restarted in 2025.

USDEC and NMPF strongly encourage the Administration to engage with Australian officials to ensure that this key U.S. partner upholds the unrestricted use of common names. It is crucial to prevent any future attempts by the European Union to monopolize generic terms and to protect the full value of market access concessions within the framework of the U.S.-Australia FTA.

Brazil

Brazil is a market with considerable potential for U.S. dairy exports, yet one that presently poses significant challenges to entry for many U.S. dairy exporters. Tariffs and nontariff measures combine to make it a difficult market to fully penetrate. NMPF and USDEC believe trade discussions aimed at tackling those sizable barriers for U.S. exports could yield meaningful outcomes for the U.S. dairy industry. Despite relatively high market access barriers, the United States exported \$113 million in dairy products to Brazil in 2024, driven predominantly by high protein whey.

Tariffs are one of the largest constraints in the Brazilian dairy market. For instance, cheese tariffs range from 16 to 28 percent, while tariffs on whey products range from 12 to 28 percent.

A developing nontariff trade barrier in Brazil poses a serious concern to U.S. milk powder exports and the potential for future growth of those sales. Brazil is considering a law that would establish a minimum of 70% shelf-life on milk powder imports at the time of access into the country. NMPF and USDEC are concerned that this new shelf-life floor is intended to negatively impact imports and are unaware of any food safety-related issues that have arisen related to the current requirements that would have necessitated this change.

On another front, although U.S. exporters have benefited from the integration of an online system to grant registration approval to products with a standard of identity, the system fails to efficiently facilitate a process for products that lack such a standard. Moreover, there is concern over registration issues for less “traditional” products such as micellar casein.

A further challenge that is poised to negatively impact U.S. opportunities in the market in the future is the EU-Mercosur agreement under which Brazil committed to impose restrictions on a number of common food names, awarding the European Union geographical indication registrations even for terms in long-standing use in Brazil as generic terms. Adding to this problem, a list of “prior users” of terms scheduled to be restricted under the FTA omits all retailers and importers despite their previous inclusion on a 2020 version of the prior users list. This is a blatant attempt to limit competition and the opportunity for non-EU suppliers to fairly trade in this large dairy market.

The European Union and the Mercosur countries finalized their FTA negotiations on December 6, 2024. On September 3, 2025, the European Commission announced that it had adopted the Council’s proposals to sign the EU-Mercosur FTA, with the signing expected during the Mercosur Presidents’ Summit in December 2025. Given these developments, NMPF and USDEC strongly urge USTR to ensure that Brazil addresses the non-tariff barriers embedded in this agreement and to preserve meaningful access for U.S. dairy exports to this critical and growing market.

Moreover, despite USDEC's 2019 comments to the Brazilian government opposing the protection of common terms under the FTA negotiations with the European Free Trade Association (EFTA) countries—Iceland, Liechtenstein, Norway, and Switzerland—the agreement was signed on September 16, 2025. This outcome underscores the pressing need for the U.S. government to intensify its efforts to defend the use of common food names in Brazil, as the EFTA agreement may impose unjustified restrictions on widely used terms such as “gruyere” and “emmental.”

In an effort to develop a network of likeminded international partners to counter some of these anti-trade and anti-dairy initiatives, USDEC and NMPF signed a July 2024 Memorandum of Understanding (MOU) with ABRALEITE, the Brazilian Association of Milk Producers.

Canada

Canada has a long history of sustained efforts to undermine access to its market and impair the value of trade concessions granted in prior dairy agreements. USMCA provisions are intended to make headway into this tightly restricted market. Most notably, the agreement was designed to introduce new disciplines on Canada's use of its dairy pricing programs to intentionally distort trade (including through the elimination of Class 6/7) and usher in an expansion of U.S. dairy access to the Canadian market. Unfortunately to date the agreement in practice has fallen short on both fronts due to Canada's actions.

Market Access

The chronic underutilization of Canada's dairy quotas continues to inhibit the ability of American dairy exporters to access the market as fully as USMCA intended. NMPF and USDEC commend USTR's pursuit of two USMCA dispute settlement panels to address Canada's failure to implement dairy TRQ allocations that meet its USMCA obligations. Canada's egregiously high dairy tariffs make the USMCA TRQs vital for U.S. access to the Canadian dairy market.

In light of the flagrantly misguided second panel ruling that allowed Canada to continue circumventing the intent of the USMCA agreement, NMPF and USDEC urge the U.S. government to leverage all available tools during the 2026 USMCA sunset review process to address TRQ administration procedures that continue to award the vast majority of dairy quota access to Canadian processors while shutting retailers and food service providers out of access entirely and tightly limiting availability for importers/distributors. This approach, coupled with the lack of penalties for non-use of the TRQs will continue to throttle the access to the Canadian market for which the United States so painstakingly negotiated.

Canada's continued blocking of USMCA market access through its administration of TRQs must be addressed in the upcoming Review. This includes extending quota access to

stakeholders throughout the supply chain, including but not limited to retailers, restaurants, hotels, food service providers, etc., in alignment with USMCA's requirements to grant TRQ access to those active in Canada's food and agriculture sector. The Review should also result in more robust quota return policies that discourage non-use or routine return of quotas mid-year by limiting future access to the TRQs for those quota holders with chronic underutilization rates.

The U.S. government negotiated extremely hard to obtain important incremental access into the Canadian market in USMCA, a very significant concession given Canada's tightly protected market. The failure of Canada to live up to that agreement by subverting both the spirit and the letter of the USMCA dairy market access provisions has been borne by U.S. dairy farmers and processors. For example, cumulative U.S. access negotiated for the "Cheeses, Industrial Use" quota (TRQ-CA05) from the July 1, 2020, implementation through the end of calendar year 2024 was 15,104 metric tons. Canada's manipulative TRQ administration has resulted in only 9,116 metric tons imported under the quota, or just 60 percent of the total access granted.

U.S. farmers and manufacturers remain grateful to the U.S. government for the intended USMCA access and strongly support the use of the Review process to ensure that Canada cannot no longer shirk its full obligations. The USMCA 2026 Review should take into account the fact that Canada did not provide the access the U.S. government negotiated for U.S. dairy farmers and manufacturers. NMPF and USDEC believe the U.S. government should carefully investigate the access that Canada intentionally shortchanged U.S. producers from fully using. Canada must be held accountable for the clear undermining of its dairy market access obligations; this is critical not only to preserve full bilateral trade flow but also to preempt other U.S. trading partners from adopting a similar pattern of behavior.

Canadian Nonfat Milk Solids Trade-Distorting Policies

In parallel to the continued pursuit of Canadian compliance with its USMCA market access commitments, NMPF and USDEC urge USTR to work with interagency partners to address Canada's implementation of dairy-related USMCA provisions, particularly the export surcharge disciplines on dairy protein exports. We welcome USTR's request for USITC's initiation of a Section 332 investigation into the United States' competitiveness on nonfat milk solids earlier this year. We are confident that the final report will serve as a valuable tool in addressing Canada's persistent attempts to evade its USMCA dairy export disciplines.

Out of the leading global suppliers to the world nonfat milk solids markets, Canada's distortionary policies are currently the most trade-distorting and harmful on those markets. Canada's impact on global nonfat milk solids markets stems from its long history of deliberate, government-driven distortion. For years, it has manipulated dairy pricing in order to shape trade flows through schemes like the defunct Classes 6 and 7, and it now relies on Class 4a, which results in growing volumes of artificially low-cost nonfat milk solids destined

for export while preserving some of the highest farmgate milk prices globally. Despite commitments designed to tackle this problem under USMCA, Canada has sidestepped export disciplines by shifting surplus into further processed products under alternate tariff codes and has blocked U.S. access through its protectionist TRQ administration. At the same time, federal and provincial governments in Canada continue to pour billions into subsidies that expand processing and export capacity for nonfat milk solids.

The egregiously anticompetitive nature of the Canadian policies harms U.S. suppliers by undercutting U.S. prices globally while simultaneously impairing market access into Canada, both of which are clear contraventions of what USMCA sought out to accomplish.

Class 4a Pricing

Canada has built a decades-long record of distorting global trade in nonfat milk solids through mismanagement of its supply management system. As a result of its inability to balance supply and demand under its supply management system, Canada has engineered a chronic surplus of nonfat milk solids. Rather than allowing market forces to correct these imbalances, Canadian authorities have repeatedly introduced new pricing classes and policy tools, such as Classes 6 and 7, designed specifically to suppress domestic prices for a certain portion of the skim solids produced and to channel excess product into export markets at artificially low rates that directly undercut competitors, especially U.S. dairy producers, processors and exporters.

USMCA was intended to address this harmful practice through a combination of measures designed to work together to tackle the problem: formally eliminating Classes 6 and 7, requiring Canada to align milk pricing more closely with market realities, and imposing disciplines on Canadian exports of various nonfat milk solids products – namely: skim milk powder, milk protein concentrates, and infant formula. These export disciplines were executed through an export surcharge that Canada must apply if it exceeds agreed volume levels of those products.

However, instead of abiding by the intent of the agreement to curb exports of artificially low-priced dairy protein products, Canada has shifted the same pricing incentives into other milk classes and product streams that remain largely unregulated by USMCA's export disciplines. Canada's current milk pricing structure continues to replicate many features of the eliminated Classes 6 and 7 through other milk classes such as Class 4a. This pricing framework still allows processors to acquire surplus skim milk solids at discounted prices for use in exported protein products and undercut U.S. exporters.

In the upcoming USMCA 2026 Review, USDEC and NMPF urge the Administration to secure from Canada further reforms to its dairy pricing tools to address these concerns and head off further changes likely to replicate their impacts.

USMCA Export Discipline Circumvention

In addition to eliminating Classes 6 and 7 during the USMCA negotiations, the United States aimed to address Canada's growing propensity to offload surplus nonfat skim solids onto the global market by including disciplines specifically targeting those nonfat milk solids that presented the largest threats at that point in time: surpluses of SMP and MPC and the potential for Canada to begin producing and exporting large volumes of infant formula. The agreement established disciplines on Canadian SMP, MPC and infant formula export volumes by applying a surcharge on exports that exceed a set threshold.

Although the export thresholds have so far limited exports of products specifically named in the agreement—skim milk powder (SMP), milk protein concentrate (MPC) under HTS 0404.90 and infant formula—the disciplines have not succeeded in curtailing the impact of Canada's surplus nonfat milk solids on dairy markets because Canada has worked to evade their impact by shifting to produce and export other nonfat milk solids products through alternative tariff codes.

Export data highlights areas of concern across several tariff classifications that routinely include nonfat milk solids, including, for example:

- HTS 1806 for SMP blended with cocoa and potentially an additional fat source,
- HTS 1901.90 for dairy skim blends and fat-filled milk powder,
- HTS 2106.10 for protein and textured protein substances, and
- HTS 3504.00 for peptones and other protein substances, under which high derivative MPCs and isolates could be classified.

Data analysis shows that exports of Canadian cocoa-based products, including cocoa powders and chocolates classified under HTS 1806 that contain nonfat dry milk (NFDM) or SMP, have risen by 20 percent since the implementation of the USMCA. Approximately 88 percent of these exports are shipped to the United States.

Even more significant is the sharp increase in Canadian exports under HTS 1901.90, a category that includes dairy skim blends and fat-filled milk powders. In the year before the USMCA took effect, exports totaled 77,000 metric tons, but by 2024 that figure had more than doubled to 166,000 metric tons. Of this total, more than 147,000 metric tons were exported to the United States, creating direct competition for U.S.

suppliers by introducing artificially low-priced products. Smaller export volumes were sent to the Philippines, Mexico, Chile, and Malaysia, where U.S. exporters face similar pricing disadvantages. By adding maltodextrin or increasing fat levels to produce fat-filled milk powders, processors can make minimal changes to NFDM and SMP that reclassify the products away from the USMCA-disciplined tariff code HTS 0402.10.

A similar trend is evident in Canadian exports labeled as “protein and textured protein products” under HTS 2106.10, which are likely to include dairy proteins. Before 2020, annual exports were under 5,000 metric tons, but they surged to more than 40,000 metric tons immediately after USMCA implementation. Although exports have declined since then, this tariff line still warrants close monitoring.

Another noteworthy development is the rise in production and exports of MPC 85+ protein content and milk protein isolates (MPIs) under HTS 3504.00. Canada has doubled exports of these high-value protein products since the USMCA was implemented, supported by targeted government subsidies for specialized processing facilities. Of the 26,000 metric tons exported under this code in 2024, nearly 15,000 metric tons entered the United States, creating direct competition for U.S. producers in their domestic market. Other key export destinations include the European Union, China, South Korea, and Japan, where Canadian policies similarly undercut U.S. exports.

Canadian exports of HTS 1702.11 and 1702.19 for lactose and lactose syrup have also skyrocketed post-USMCA implementation, which substantiates increased use of ultrafiltration and reverse osmosis technology to produce highly concentrated dairy proteins.

Should additional export disciplines be implemented to tamp down artificially low-priced MPI, SMP blend, cocoa powder and “other” protein categories in HTS Chapters 21 and 35, the U.S. government should be cognizant of the products and tariff categories through which Canada is most likely to reroute nonfat skim solids, including HTS 1704.90 for protein bars/confectionary without cocoa, HTS 1806.32 protein products containing cocoa, HTS 2106 protein products and blends, HTS 2202.99 milk-based drinks, HTS 3501 caseins and caseinates and HTS 3502.20 high value whey proteins. An approach that focuses on constraining the total milk protein solids exported by Canada may be a more all-encompassing approach rather than the rifle-shot focus on specific tariff codes.

In parallel to Canada’s increased exports under tariff codes as a means to circumvent the USMCA export disciplines, publicly available federal and provincial government

records demonstrate that Canadian dairy processors continue to receive substantial direct support to expand nonfat milk solids processing capacity and related product lines. This government support means the problems NMPF and USDEC have outlined above will continue to mount until the U.S. government successfully secures a change in the Canadian government's dairy policies.

Canada's government-backed expansion of nonfat milk solids processing is not merely incidental. It is strategic, systemic, and escalating. Through billions in subsidies to processors and a pricing scheme divorced from market forces, Canada is entrenching its structural surplus and enabling processors to undercut global competitors, especially those in the United States.

We urge the Administration to address Canada's blatant attempts to circumvent its USMCA's intention to limit artificially low-priced Canadian nonfat milk solids exports during the upcoming 2026 USMCA Review process. An approach that focuses on constraining the total milk protein solids exported by Canada may route in a longer lasting and more all-encompassing approach rather than the initial targeted focus on specific tariff codes.

Canadian Duty-Relief and Import for Re-Export Programs

In addition to these areas, NMPF and USDEC note that the U.S. dairy industry is counting on the market access granted by Canada under USMCA being provided in addition to that already extended under earlier agreements and programs, including Canada's WTO commitments and Canada's existing levels of dairy imports under its Duties Relief Program and Import for Re-export Program. To that end, Canada must not cut back the existing scope or volume of dairy products that may be imported under these programs as it implements its new USMCA market access. NMPF and USDEC strongly appreciate the USMCA provision designed to avoid backsliding by Canada on access to its market for products currently imported under the Duty-Relief Program or Import for Re-Export Program. Careful monitoring of the implementation of these programs under USMCA is important to ensure compliance with the agreement's provision in this area and to guard against Canada giving with one hand while taking with the other.

As the three nations approach the Sunset Review, NMPF and USDEC would like to stress the importance of ensuring that USMCA delivers the changes in U.S.-Canadian dairy trade that the Administration and Congress envisioned upon approval of the agreement.

Chile

Chile is an important market for U.S. dairy exports, exceeding \$100 million last year due in large part to the success of the U.S.-Chile FTA's removal of tariff and nontariff barriers. Retaining competitiveness in this market requires preservation of the FTA with Chile and avoidance of the imposition of new nontariff barriers.

USDEC and NMPF commend USTR and USDA for their extensive work to secure the U.S.-Chile exchange of letters that protects U.S. exporters' rights to use common product names like "parmesan" and "gouda" in the Chilean market. The agreement, which entered into force on December 2, 2024, ensures market access for American exporters who will not face restrictions in using 29 common cheese and meat terms. It also provides important clarification regarding "prior users" of certain terms, as outlined in the EU-Chile Advanced Framework Agreement, whose Interim Trade Agreement—part of the two parallel legal instruments modernizing the EU-Chile FTA—entered into force in February 2025. NMPF and USDEC strongly urge USTR to work closely with Chile to ensure full implementation of this agreement, thereby allowing U.S. cheese exporters to continue marketing their common-name products covered by the agreement without impediment.

To guard against future trade-related challenges, USDEC and NMPF entered in a 2022 MOU with FEDELECHE, the Chilean Dairy Producers Association as part of an effort to develop an international network of allies to ward against dairy trade barriers.

China

China has become a critically important market for U.S. dairy exports, with U.S. dairy sales to China last year alone totaling over \$584 million, ranking China the third largest export market for U.S. exports.

The U.S.-China "Phase One" economic and trade agreement in 2020 addressed numerous regulatory impediments for U.S. dairy exports to the Chinese market and has continued to yield benefits for the U.S. dairy industry. Overall, this agreement is functioning well and has delivered important benefits for U.S. dairy exporters. Areas of top priority for the U.S. dairy industry as the U.S. engages with China include the incorporation of dairy products such as milk powder, cheese and fluid milk into any agricultural purchase commitments by China.

Although overall the General Administration of Customs of the People's Republic of China (GACC) inconsistent has been regularly updating plant registration information to the China Import Food Enterprise Registration (CIFER) and U.S. dairy facilities have maintain access to the Chinese market, at times these updates have taken somewhat longer than the Phase One agreed upon time frame. U.S.-China Phase One Agreement text stipulates that "each time the United States provides China with an updated and complete list of dairy facilities and

products under the jurisdiction of the FDA, within 20 working days of receipt of the list: (i) register the facilities and publish the list of facilities and products on the GACC website; and (ii) allow U.S. dairy imports into China from those facilities.” As the Phase One review proceeds, USDEC and NMPF urge the U.S. government to engage with Chinese counterparts to ensure listing continuity and timeliness to avoid any trade disruptions.

Retaliatory Tariff Impacts

As the United States continues trade negotiations with China, USDEC and NMPF urge USTR to seek removal of China’s retaliation on U.S. dairy products. U.S. dairy products currently face a 10% retaliatory tariff. This is in addition to additional retaliatory rates currently in place if waivers are not granted for those sales for prior retaliation. While trade has largely continued at a similar rate when compared year-to-date as 2024, the additional retaliation puts U.S. exporters at a further disadvantage to competitors and limits opportunities to meet growing demand.

Tariff Disparity Constraints

Two key dairy trading competitors have FTAs with China: New Zealand and Australia. Those FTAs provide significant quantities of duty-free dairy product access to the Chinese market in ways that make it very challenging for U.S. dairy exporters to compete on a level playing field in China, particularly during the portions of the year in which duty-free safeguard quantities are permitted. For instance, this year New Zealand enjoys duty-free access for skim milk powder and cheese while U.S. exporters must pay the full Most Favored Nation (MFN) rates of 8-12% in addition to the additional retaliatory duties.

Erection of De Facto Barriers to Trade Through Misuse of Geographical Indications

GIs and common cheese names are a key interest for U.S. dairy exporters in this large and expanding market. The United States secured commitments from China in the U.S.-China “Phase One” Agreement and in the U.S.-China Joint Commission on Commerce and Trade regarding the use of common food names. To date, exporters continue to enjoy the ability to use a wide variety of common names in this key market.

To provide greater certainty to this situation for exporters, however, NMPF and USDEC encourage the incorporation of even clearer safeguards establishing the rights of U.S. suppliers to use common terms.

In this vein, USDEC and NMPF call on the U.S. government to address the repeated refusals by Chinese intellectual property authorities of trademark applications containing the common term “parmesan.” These refusals, which are based on the “Parmigiano Reggiano” GI, are concerning given that the China-EU GI Agreement explicitly clarifies in Annex IV, footnote 5, that “the protection provided for in this agreement does not apply to the term ‘parmesan.’”

This explicit exclusion is intended to preserve the generic use of “parmesan” for all market participants. On January 25, 2025, the Supreme People’s Court of China ruled that, although the EU-China agreement allows the use of “parmesan” in commerce, the registration of a trademark incorporating the term is prohibited due to a potential likelihood of confusion with the “PARMIGIANO REGGIANO” certification mark. This decision has introduced uncertainty for U.S. exporters and as such illustrates the need for U.S. government engagement to ensure that Chinese IP enforcement approaches align with their international commitments.

As Phase One review moves forward, NMPF and USDEC encourage USTR to include the issues listed above as it works to ensure China’s full compliance with the “Phase One” agreement.

Colombia

Last year, the U.S. dairy industry exported \$129 million worth of dairy products to Colombia, ranking it as the United States’ 10th largest dairy export market. With MFN rates approaching 100 percent for certain dairy products, the U.S.-Colombia FTA has been instrumental to the U.S. dairy industry’s growth in the Colombian market.

Colombia warrants close monitoring to ensure that the dairy market access FTA provisions are not eroded. In September 2024 the Colombian government implemented an additional 4.86% duty on milk powder imports from the United States as part of its politically contrived Subsidies and Countervailing Duties investigation. While the provisional tariffs have since lapsed – thanks in key part to the robust U.S. government interagency effort to refute Colombia’s unfounded assertions that the United States had unduly subsidized milk powder production – concerns regarding future attempts to limit trade persist.

Should Colombia seek to reimpose countervailing duties on U.S. milk powder or initiate an additional politically motivated dairy investigation, USDEC and NMPF ask that USTR be prepared to leverage all available tools in response, including retaliatory duties. Left unanswered, unwarranted countervailing duties would set a damaging precedent that could be replicated in markets across Latin America and elsewhere.

In addition to the Colombian government’s 2024 attempt to walk back the market access provisions enshrined in the FTA, several technical barriers to trade are emerging that threaten sales in the Colombian market. NMPF and USDEC urge the Administration to work with Colombia on addressing these issues including the following concerns:

Facility Inspection and Registration Regulation

In 2018, Colombia issued a regulation that would require mandatory plant inspections by Colombian health officials for all dairy importers. For countries that have an FTA with Colombia, the decree permits systems recognition upon the request of the exporting country.

This is a reasonable and valuable accommodation, however, the implementation procedure for this system of recognition has yet to be established. As a result, the United States has been stymied in making use of this avenue that would be critical to retaining smooth access to the Colombian market. U.S. exporters require a systems recognition process to streamline plant registration and avoid the need for onerous and duplicative inspections. Resolution of the facility registration requirement is critical to ensure continued uninterrupted access to this important FTA partner market.

Front of Pack Labeling

Colombia has been advancing implementation of a front-of-pack labeling regulation which is similar to others in the region. However, Colombia is also considering implementing a food tax on products that are deemed “ultra-processed”. It is imperative that Colombia does not include nutritious products such as dairy on that list.

Technical Requirements for Milk Intended for Human Consumption

In August 2020, INVIMA (Colombia's regulatory authority equivalent to the U.S. Department of Health and Human Services Food and Drug Administration) informed the United States that all U.S. shipments of milk powder to Colombia must meet the physical and chemical properties requirements in Decree 616 of 2006, including minimum lactic acid content requirements. Decree 616 was notified to the WTO Committee on Sanitary and Phytosanitary Measures (WTO SPS Committee) in 2005 and again in 2012. The scientific basis and rationale for the regulation remain unclear.

In September 2024, Colombia's Ministry of Health published an updated draft regulation to amend Decree 616, which still includes mandatory minimum lactic acid requirements for milk powder and restrictions on marketing reconstituted milk as a final product. The main concern is Colombia's persistent interest in restricting U.S. milk powder exports by enacting non-Codex requirements to limit market access and trade opportunities for U.S. dairy producers. The United States participated in Colombia's domestic consultation process for the draft regulation, which ended in September 2024. The draft regulation is pending notification to the WTO SPS Committee.

Common Names

As part of the Colombia-EU FTA, Colombia restricted the use of certain common food names such as “feta” and “asiago.” This action impaired the value of concessions granted to the United States under the U.S.-Colombia FTA.

Additionally, there is a troubling trend of refusing trademark applications and canceling existing trademark registrations due to claims that the use of “parmesan” is the translation of

Parmigiano Reggiano and thus is misleading in relation to the GI. Such actions underscore broader concerns about the legal treatment of generic terms and cast doubt on the certainty and predictability of intellectual property rights acquired in good faith in Colombia.

To avoid additional restrictions in this market and to preserve the full access in the U.S.-Colombia FTA, steps to provide strong certainty regarding U.S. market access rights and explicit rights to use common food names for key products produced in the United States are needed.

To help combat trade-restrictive pressures in this market, NMPF and USDEC signed a 2024 MOU with ASOLECHE, the Colombian Association of Dairy Industry.

Costa Rica

Costa Rica is an important destination for U.S. dairy exports with \$61 million in sales last year. This volume is driven by the Central America-Dominican Republic FTA (CAFTA-DR) and the important provisions that phase out all tariffs on U.S. dairy exports. NMPF and USDEC commend the Administration for its excellent work in securing a streamlined approach to dairy facility registration in Costa Rica. This issue has been a long-standing challenge dating back many years. The new approach established in 2025 is already yielding swift and smooth results for U.S. dairy exporters and we urge the U.S. to work closely with Costa Rica to maintain it.

Ecuador

Ecuador is a market with potential for growth should the United States be able to remove the tariff constraints and address nontariff concerns that challenge U.S. dairy exports to this market. U.S. dairy exporters currently are at a tariff disadvantage to EU suppliers given preferential market access terms in the EU-Colombia-Peru-Ecuador FTA. The disadvantage has the potential to worsen with Ecuador's pending request to ascend to the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), which would provide New Zealand and Australia with more favorable market access terms for its dairy exports to Ecuador. Beyond tariff disadvantages, Ecuador maintains several nontariff barriers to U.S. dairy trade:

Facility Registration Requirements

On Jan. 14, 2021, Ecuador's Resolution 0115/2019 Annex 2 went into effect for all U.S. agricultural exporters and traders who export animal products to Ecuador. Through this resolution, the National Sanitary and Phytosanitary Authority (AGROCALIDAD) mandates that all importing companies purchasing U.S. dairy products must register the respective manufacturing facilities. Specifically, the resolution states that companies importing

products classified by AGRCALIDAD as high-risk (e.g., fresh cheeses, butter, cream cheese, etc.) must fulfill the requirements in Annex 2, which requires the submission of extensive documentation through a process that is cumbersome and non-transparent, before the issuance of import permits. This trade-restrictive requirement is still significantly diminishing market access for U.S. companies in favor of European dairy exports.

Import License Requirements

The procedure to obtain import licenses continues to unduly impact dairy trade: Resolution 299-A of June 14, 2013, from the Sub-secretary for Trade of MAGAP lists non-automatic import license requirements for additional agricultural goods. This regulation clearly states that import licenses are not automatically granted and that the determination is based on whether there is sufficient domestic production.

Should negotiations between the United States and Ecuador advance, NMPF and USDEC encourage USTR to seek more favorable market access terms through addressing Ecuador's tariff and nontariff barriers alike.

Egypt

Last year, the United States exported \$34 million of dairy products to Egypt. The market represents promising growth capacity in the North Africa region for American dairy producers. Unfortunately, U.S. dairy exporters are at a competitive disadvantage in the market due to the Egypt – European Union Association Agreement that provides preferential access to European suppliers.

Halal Certification Requirements

In March 2025, the Egyptian government notified the WTO that it intends to exempt imported dairy products from Halal certification, a welcome development. Prior to the exemption, a planned threatened to impose a significant trade barrier as Egypt only authorized a sole-source Halal certification body eligible under the proposed regulation. However, questions remain pertaining to whether dairy products will be permitted to contain Halal marks from Halal certifiers not approved by Egypt, even if the shipper is not making any other Halal claims in documentation.

As Egypt continues to grow as a market of opportunity in North Africa, USDEC and NMPF encourage USTR to pursue measures to pursue a more level tariff playing field with European competitors and forestall the introduction of nontariff barriers.

European Union

The United States' trade deficit with the European Union in dairy was a shocking \$2.7 billion in 2024, even though the United States is itself a major dairy exporter and strikingly similar product portfolio and consumer preferences.

Clearly, many EU member countries are important dairy producers and exporters, but this does not fully explain why last year the European Union exported \$2.88 billion in dairy to the United States while only importing approximately \$167 million from the United States given the large variety of dairy products in which the United States is a leading supplier to many markets around the world.

The United States has become a significant net exporter of dairy products to the world. Indeed, the U.S. dairy industry exports considerably more to such far away markets as Indonesia and Vietnam than it is able to export to the entire set of European Union countries. As illustrated below, U.S. exports to the European Union are limited by a wide range of both tariff and nontariff measures that make sales in the EU market unduly complicated, costly, or even illegal.

In addition to the barriers in its own market, the European Union's intentional global efforts to impede competition from U.S. companies in third-country markets are particularly problematic given its tremendous reliance on the United States as a destination market. These global anti-competitive tactics should be part of any engagement on trade matters with the European Union.

The FTA between New Zealand and the European Union that entered into force in May 2024 exacerbated the United States' already abysmal competitive position in the EU market as the agreement introduced New Zealand-specific quotas for cheese, butter and milk powders that include significantly reduced in-quota tariffs.

Given the number of issues at play in U.S.-EU dairy trade, NMPF and USDEC firmly believe that only a comprehensive system-approval approach that establishes a simplified and streamlined certificate and trading terms, while also guarding against future unscientific and protectionist import requirements, would address both current challenges and trade barriers that may be introduced in the future given the European Union's track record on agricultural issues. These worries about future unwarranted impediments to trade being introduced are heightened due to the regulation changes seen in the past few years as the European Union has undertaken a complete revision of its trade-related regulations and those being contemplated related to the European Union's Farm to Fork strategy.

These issues are not limited to the European continent. The European Union's acceleration of FTA negotiations in key dairy export markets, including Mexico and Mercosur, threaten the immediate ability of U.S. exporters to remain competitive through their attempts to impose

pertaining to the use of generic food and beverage terms. Equally concerning is the European Union's propensity to "export" its restrictive regulatory regime to third country markets by influencing policy development and, in some instances such as the misuse of geographical indications, outright coercing countries to comply. The European Union's long-term strategy of seeking to monopolize market share and shut out fair competition from the United States through its trade negotiations is a source of significant concern for U.S. dairy exporters' ability to remain competitive globally.

We are encouraged by steps the Administration has taken to engage more strategically with the European Union to address U.S. export concerns and push in the direction of increasing the level of reciprocity to our deeply one-sided dairy trade relationship. USDEC and NMPF urge the Administration to build upon this important first step by insisting on substantive changes as the negotiations continue. For instance, the U.S. dairy industry is eager for the Administration to continue to pursue greater access into the EU dairy market. While the 20,000 MT of new access to the EU dairy market is very welcome; it still pales in comparison to the amount of access EU dairy exports to the U.S. enjoy—for instance the EU has a total of approximately 70,000 MT of EU-only TRQ access to the U.S. cheese market alone.

Beyond tariff commitments, NMPF and USDEC appreciate the commitments secured in the agreement for the European Union to facilitate trade by streamlining import certification requirements, a massive and chronic hurdle for U.S. dairy exporters given the ever-shifting, politically contrived regulations that are frequently not based in science, many of which are detailed below. Ensuring robust implementation of this commitment will be critical.

USDEC and NMPF look forward to working with USTR and its interagency partners to secure greater reciprocity in what has been a historically lopsided trade relationship and to ensure full follow-through from the European Union on all its dairy market access commitments.

Specific EU nontariff policies of concern are detailed below:

Certification and Additional Access SPS or TBT Compliance Requirements

The certification issues cited below are examples of the types of challenges the industry has seen arise related to EU dairy certification and related forms of access compliance requirements. In the case of somatic cell count (SCC) and date stamping requirements, the United States has, after considerable effort, found a way to manage these requirements in a manner that has permitted trade to continue at present.

The U.S. dairy industry's fundamental challenge remains overly prescriptive EU requirements that mandate assurances of compliance with specific EU regulations and various mandates that require the U.S. process for oversight to mirror that used in the European Union. Increasingly, EU requirements are pushing down to the farm level (despite no food safety basis for doing so) which is deeply problematic. The constant threat of new certificate shifts and the risk of market closure each time a new regulation is proposed

creates a highly volatile market dynamic with the European Union on dairy trade. In contrast, the U.S. dairy certificate for EU imports is very brief and focused on top line food safety and foot-and-mouth disease attestations. It has been consistently applied for many years.

The constantly evolving certificate requirements have created challenges at ports, and the European Commission's lack of responsiveness continues to be a concern. With each update to the European Union's certificates, several ports have questioned the way the U.S. government has completed the new templates. The European Commission has been very slow to provide engagement, and shipments have sat detained and accumulated demurrage while awaiting feedback, even on items that the U.S. government and European Commission agreed to in their discussions of the new certificate. The European Commission's inaction has resulted in USDA's Agricultural Marketing Service needing to engage the ports one-on-one as issues arise, and in some cases, complete the certificate in different ways for different ports. This individual approach is not sustainable.

We include the certificate-related experiences below pertaining to dairy and composite certificate evolutions in recent years to illustrate the importance of full implementation of the Reciprocal agreements' commitment on dairy certificate streamlining.

- *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 use of certain antimicrobials in its food system and demanded that all countries exporting to the European Union also restrict the use of antimicrobials in line with this legislation. In July 2022, the European Union published its list of antimicrobials restricted to use in humans in Commission Implementing Regulation 2022/1255. The European Union has since continued to advance this trade-distorting regulation that fails to comply with WTO rules.

As implementation of this regulation currently stands, NMPF and USDEC's primary concerns with this regulation focus on the European Union's overreach on veterinary drugs and commonly used antimicrobials. The policies that the European Commission

decides to impose within its own territory are for EU regulators to decide. However, the limitations noted in this regulation will not only apply to EU producers but also dictate animal care practices to all EU trading partners as well, a step that far exceeds what measures are WTO-permissible for the European Union to undertake in the absence of a clear indication of a food safety risk posed by imports not complying with the European Union's preferred approach to addressing anti-microbial resistance in the EU population. It is not up to one trading bloc to dictate animal care practices to all other sovereign nations around the world.

A reciprocity clause in the 2019/6 regulation effectively imposes EU hazard-based antibiotic use measures on milk producers in countries that export to the European Union, including the United States. Although the initial list of antimicrobials in this legislation is not presently expected to negatively impact U.S. dairy producers, the impact of future amendments may be severe, as veterinarians in countries wanting to export to the European Union could lose their capacity to determine the best options available to prevent, control, and treat animal disease, including options vetted by the science-based risk assessment process for global food safety standards established by the Codex Alimentarius Commission (Codex). This may result in negative consequences for food safety, public health, and animal health and welfare. Third countries may be impacted directly because food operators may not be able to use products they currently use, including those deemed safe and effective by national competent authorities. In the case of dairy cattle, there are several negative consequences anticipated from this legislation for the most common disease in cows (mastitis) and in calves (diarrhea) if EU Article 118 restricts use of antibiotics deemed medically important by the World Health Organization (WHO).

In February 2024, the European Union issued an update to its health certificate to include antimicrobial related language in the attestations, and this language was again updated in April 2025. Third country governments, including the United States, will be required to attest to the new antimicrobial language for shipments arriving in the EU beginning in September 2026 and can cross off or otherwise not include the new attestation language until then.

NMPF and USDEC are very concerned that the European Union's reciprocity principle is another indication of the European Union's non-science-based approach to undermining the WTO's rules-based trading system and of wielding access to its market to drive changes in the production practices of its trading partners that are not lawfully up to the European Union to dictate. Such a blanket ban on imports of products with differing AMR regulations is incompatible with a "risk analysis" approach to controlling the spread of antimicrobials. As such, the European Union would be at risk of contravening the principles of the sanitary and phytosanitary (SPS) agreement.

- *Product Labeling*

The European Commission has extensive labeling requirements for animal-origin products that are the cause of more rejected shipments than any other regulatory challenge. Regulation (EC) 853/2004 demands the identification mark on the label, which is comprised of the plant number from the EU plant list and the International Organization for Standardization (ISO) code or full name of the country of origin. While these requirements themselves are straightforward, the way they are implemented causes significant challenges for the U.S. industry.

U.S. dairy facilities have two facility identifiers: one from the state (Federal Information Processing Standards, or FIPS) which is also used by USDA for its services, and one from FDA. FDA manages the EU facility list for the U.S. government, and defaults to listing its own plant identifier on the EU list. However, most dairy companies have historically listed their state facility number on the packaging. Whenever the facility number on the packaging does not match the number on the EU facility list, inspectors reject the consignment due to non-compliance with the identification mark requirement.

Other countries with comparable labeling requirements generally accept a letter from USDA linking the facility's two plant identifiers whenever there is not alignment between the label and plant list. However, to date, this approach has not worked in the EU because of the prescriptive nature of the EU's regulation. Specifically, the European Commission demands that the identification mark be applied before the product leaves the establishment. This requirement has precluded a reasonable solution to allow products from establishments that are on the EU list to enter to date. It is important that the U.S. government and EU find a way to resolve these discrepancies so that products exported from facilities on the EU list with valid health certificates can be permitted entry.

- *Packaging Requirements*

On January 22, 2025, the European Commission published a new Packaging and Packaging Waste Regulation (PPWR) in the Official Journal, marking the end of several years of negotiations on this comprehensive regulatory overhaul of packaging requirements to align with the environmental goals in the European Green Deal and supplementary policy documents. The PPWR establishes bold, potentially unachievable targets for recyclability and the incorporation of recycled plastics, including for food packaging (except for infants and young children). Most of the technical details needed for companies to create compliant packaging, including design for recycling criteria and the calculation of recycled plastics content, will be provided through delegated and implementing acts. The PPWR provides little time between issuing these acts and their enforcement. The impact on food packaging could be particularly severe, given its functional role in ensuring food safety and quality, which could be compromised should

companies not have sufficient time to innovate new packaging according to these forthcoming requirements. The risk to food security is also a concern should an insufficient supply of recycled plastics be available to meet the stated targets. Although the PPWR includes some recognition that changes may be needed to meet the stated targets to address potential risks to food safety and security, it is unclear in practice what the threshold may be for the European Commission to determine changes are necessary, and if so, when they may be made.

Similar to the antimicrobial issue referenced in this section as well, the PPWR also includes production level requirements in the form of a mirror clause which demands that all establishments around the world producing recycled plastics comply with EU rules and have a third-party audit verifying compliance. This demand aligns with the requirements of Commission Regulation (EU) 2022/1616, which also obligates recyclers and converters in third countries that supply recycled plastics to the European Union to be approved by the competent authority where they are located as meeting EU requirements. The lack of approved facilities listed to date raises significant concerns about the feasibility of an adequate supply to meet the 2030 target date by which the European Commission mandates the use of recycled plastics, particularly for food products.

While the U.S. dairy industry is committed to the responsible management of plastic packaging and promotes sustainable practices, we are concerned that the European Union's rush to push forward legislation with overly ambitious targets and cumbersome third country compliance requirements is likely to create a barrier to trade, drive up food prices, and disrupt supply chains.

- *Certificate Date Requirement*

The European Union requires the health certificate to be dated prior to shipment despite the lack of a basis for mandating this from countries utilizing systems-based food and animal health system oversight. AMS issues certificates in the United States based on an inspection system and does not have inspectors physically stationed at each plant at the time the container loads. Despite the Commission's recognition of the U.S. system during systemic audits, the European Union has refused to allow for flexibility in the implementation of this requirement as it relates to U.S. exports. In July 2024, the USDA Foreign Agricultural Service (FAS) presented the European Commission's Health and Food Safety department (DG SANTE) with reasonings for why the current system is detrimental to the U.S. dairy industry and requested that the United States be allowed to issue certificates within 15 days of departure for sea shipments.

The result of this draconian policy is a significant number of shipments each year that are not permitted entry into the EU simply because of paperwork delays, despite the fact that the goods meet EU requirements and are otherwise eligible for certification. As the U.S.

and EU work on dairy certificate streamlining, we encourage the U.S. government to secure a way to alleviate this long-standing burdensome date requirement that does not contribute in any way to confirming goods are eligible to enter the EU market.

- *Third Country Compliance Monitoring*

The European Commission published a new third country compliance monitoring regulation via Commission Delegated Regulation (EU)2022/2292 in November 2022. This regulation was adopted on Sept. 6, 2022, one day after the comment period for the draft regulation closed and began to be enforced as of Dec. 15, 2022. The quick adoption of this new regulation is a clear indication that the WTO notification process was never intended to seriously take into account the feedback of trading partners and is another example of the European Union forcibly pushing significant new demands on third countries without consideration of the impact these new regulations may have.

The adopted legislation imposes significant additional controls on the use of veterinary medicines and demands extensive testing of contaminants and pesticides to show continued compliance with EU regulations. While at present, the United States has been able to comply with this mandate, these requirements are yet another sign of the European Union's non-science-based approach to undermining the WTO's rules-based system and deliberate attempt to leverage market access as a means to dictate changes in the production practices of its trading partners.

- *Consumer Preference Mandates*

The European Commission has previously stated its intention to create new policies on sustainability and animal welfare. It has also indicated that it is considering imposing demands on trading partners related to both these initiatives. WTO SPS rules allow countries to take certain science-based measures impacting imports of food and agricultural products only for the protection of human, animal and plant life or health, and provided certain criteria are met. WTO obligations for the imposition of technical regulations clearly state that countries shall not create unnecessary obstacles to trade and should be no more trade-restrictive than necessary. Both sustainability and animal welfare fall into the category of consumer preference and therefore do not meet the SPS guidelines.

As the European Union prepares for the issuance of new legislation on animal welfare, it has held regular meetings with industry, including several in which the regulators have announced their intention to impose animal welfare requirements on trading partners. Although the specific requirements have not yet been announced, the European Food Safety Agency (EFSA) has conducted a study and made recommendations on the animal welfare of dairy cows. Many of their suggestions go far beyond World Organization for

Animal Health (WOAH) standards and, if adopted, would create insurmountable barriers to trade if imposed on U.S. exporters.

U.S. exporters would also be further disadvantaged as the European Commission has indicated they may provide financial support to help domestic industry comply with any new regulations, while those outside the member states would be forced to make the comparable changes without such contributions. This animal welfare initiative can only be seen as an attempt to protect domestic producers at the expense of imports, despite the fact that the farm-level requirements have no impact on the safety of the final product consumed.

While NMPF and USDEC support the importance of sustainable production and animal welfare (the United States was the first country in the world to have an International Organization for Standardization (ISO)-certified WOAH compliant dairy welfare program), the organizations recognize there is no “one size fits all” approach to a sustainable future. NMPF and USDEC urge the European Union to fully respect its WTO obligations and refrain from imposing trade barriers on imported food and agricultural products that meet European Union food safety and communicable animal disease outcome requirements.

- *Inconsistent Animal Health Requirements*

There are several concerns related to the foot and mouth disease (FMD) requirements in the European Union’s dairy and composite certificates that limit the sourcing of dairy ingredients despite appropriate heat treatment depending on the risk of FMD.

- Dairy: The European Union requires dairy products from countries at risk of FMD to be heat treated according to conditions similar to the prior version of WOAH’s Terrestrial Animal Health Code, and such goods must utilize the Chapter 36 certificate of Commission Implementing Regulation (EU) 2020/2235, which is specific to countries at risk for FMD. Dairy products from countries without FMD are exported with the Chapter 35 certificate, which again mirrors previous international guidelines for countries without FMD. There are no provisions in the Chapter 36 certificate to allow for the sourcing of dairy ingredients from countries free of FMD, yet there is no health-related risk to prohibit their use in countries at risk of FMD. There are also no allowances for countries without FMD utilizing the Chapter 35 certificate to source dairy ingredients from countries at risk of FMD, even if the ingredients are treated according to the requirements of Chapter 36 and are eligible for direct export to the European Union.
- Composite: The Chapter 50 composite certificate does not allow for the utilization of dairy ingredients from countries at risk of FMD in the manufacture of composite products in third countries not at risk of FMD. However, these same dairy ingredients

may be exported from approved third countries at risk of FMD to the European Union under the Chapter 36 certificate and utilized in the manufacture of composite products in EU member states. The practice violates WTO rules governing national treatment since different rules apply to the use of ingredients in third countries as compared to EU member states.

The inconsistencies have hampered trade in both dairy and composite products and could be rectified if the European Union were to modify its certificates to ensure equal treatment of foreign and domestic products for properly treated products.

- *Deforestation Regulation*

The European Commission introduced a June 2023 regulation (EUDR) that stipulates any exporter shipping certain agricultural and industrial products to the European Union must be able to prove that the products do not originate from recently deforested land or have contributed to forest degradation. While the regulation does not yet include dairy products, besides potentially some chocolate products of HS 1806 with dairy content, the European Commission's history of frequently shifting its regulatory requirements and propensity for scope creep indicates a likelihood that dairy exporters may be incorporated into future iterations of the regulation, requiring onerous traceability and geolocation requirements to affirm that their products did not contribute to deforestation.

The EU's approach paints with an overly broad brush and ignores the reality, supported by U.S. government data, that wide-spread deforestation to create additional agricultural land is not a present problem in the United States. In light of this, it is entirely unreasonable to impose overly burdensome new documentation requirements on producers merely to recreate at a more granular level what U.S. government data already indicates. Although the EUDR was delayed at the end of 2024 for one year, and there are suggestions that another one-year delay may be forthcoming, the key challenges with the regulation and potential for its expansion continue, NMPF and USDEC commend the Reciprocal agreement's language noting that "Recognizing that production of the relevant commodities within the territory of the United States poses negligible risk to global deforestation, the European Union commits to work to address the concerns of U.S. producers and exporters regarding the EU Deforestation Regulation, with a view to avoiding undue impact on U.S.-EU trade." To that end, we urge USTR to ensure that these challenges are addressed and dairy exporters are not subject to yet another certification requirement to access the already challenging EU market.

- *Somatic Cell Count Issue*

For decades, the United States provided certification assurances on somatic cell count to the European Union based on testing of comingled milk. Somatic cell counts are a quality

(not food safety) parameter. Following a lengthy history of trade devoid of any charge that this approach had led to food safety problems, the European Union then later insisted on shifting this requirement to a farm-by-farm testing approach. This EU mandates farm-level measurement despite the fact that comingled milk is typically used to produce the product ultimately sold. Compliance with this revised regulation required the creation of an extensive record-keeping exercise that was unnecessary from a food-safety perspective. This investment has now been made in order to keep trade flowing, but is an example of the European Union's redundant and overly complicated import certification process that could be avoided with a systems recognition or streamlined certification approach.

- *Requirement for Animal and Plant Health Inspection Service (APHIS) Inspection*

This requirement precludes food grade sales for feed use. Feed facilities must be inspected annually by APHIS and the facilities must be included on the Directorate-General for Health and Consumers (DG SANCO) list of approved establishments. These requirements essentially block U.S. exporters from spot sales of food-grade product in the feed market, a common practice in other markets.

- *Excessive Requirements for Colostrum*

The European Union's animal health requirements for colostrum for animal feed are extremely burdensome. As a result, the United States has not been permitted to ship colostrum for animal feed to the European Union for several years.

- *Country of Origin Labeling (COOL) Targeting Dairy*

Beginning in 2016, several EU member states moved forward with country-of-origin labeling requirements that specifically targeted dairy ingredients. The European Union is currently examining introduction of mandatory COOL on an EU-wide level, as confirmed in the February 2025 European Commission's Vision for Agriculture and Food strategy. Mandatory COOL for dairy ingredients poses a concern for trade because it appears to be designed to reduce flexibility in the choice of ingredients by EU processors who as a result may be less inclined to source ingredients outside the country in which they operate given higher tracking and compliance costs, thus potentially negatively affecting trade with non-EU countries.

An additional puzzling omission from the scope of some of the regulations that were introduced at the member state level were exemptions for Protected Geographical Indications (PGIs). Although Protected Designations of Origin (PDOs) are required to be sourced entirely from within the applicant region and as such would be naturally identifying the source of the inputs as a matter of requirement, PGIs are not required in principle to source inputs from a specific geographical region. Should the European Union implement broader COOL requirements, PGI productions should not be exempted.

- *Border Measures, Tariffs, and Import Licensing*

EU tariffs for dairy products are quite high in many cases. Moreover, in-quota tariffs are not set at levels designed to easily allow access of those quotas. For instance, in-quota rates for various cheese TRQs are set at approximately 70 – 100 Euros per 100 kg, rather than at the much more commonly used, relatively negligible levels such as 0% or 5% in order to foster utilization of the TRQ quantities. As noted above, while the EU enjoys ample EU-only TRQs to access the U.S. dairy market, the U.S. has long lacked any U.S.-only TRQs into the EU dairy market. The new Reciprocal agreement will take an initial step toward helping balance that dynamic better through its 20,000 MTs of new U.S.-only dairy TRQ access into the EU.

Compounding the challenge posed by the level of the tariffs, is the complexity of many of the related import measures. For instance, the European Union's import licensing procedures have proven to be unduly burdensome and complex, thereby inhibiting companies from taking advantage of even in-quota opportunities that do exist in the United States' dairy tariff schedule. Moreover, the European Union maintains variable duties for processed products, creating time consuming administrative complications for U.S. dairy exporters.

- *Tariff Form: Inconsistent Duties for a Given Tariff Code*

The European Union's system of variable duties for processed products adds another layer of complexity and uncertainty to shipping to the European Union. This complex method of determining the total tariff on numerous composite goods is based on the amount of four compositional parameters: milk fat, milk proteins, starch/glucose, and sucrose/invert sugar/isoglucose. The duty charged in the European Union on the composite product depends on the ranges of these products in the European Union's Meursing Code. The complexity of this formulation provides an added challenge to those seeking to export these products to the European Union.

- *Geographical Indications*

The European Union continues to pursue an increasingly trade-restricting and protectionist bilateral strategy of restricting the use of common cheese names by non-EU producers through its FTA negotiations and other international avenues. As it relates to commonly used terms, the European Union's clear goal is to advance its own commercial interests for food products by advocating for wider use of geographical indications (GIs) and by insisting on an extremely broad scope of protection for those GIs. This is intended to award EU companies with the sole right to use many terms that have already entered into widespread common usage around the world. Numerous examples are referenced in other country-specific sections of these comments; within the EU this remains a concern as well due to approvals of new GIs for Codex-standardized terms within the past two decades.

The European Commission should adopt a model in line with the “Gouda Holland” GI where protection is solely for a multi-term GI and does not extend to the generic term “gouda”. This successful model for GIs would allow for the protection of unique multi-term regional specialties while clearly preserving continued generic usage of the product type. In addition, the European Commission should establish a non-exhaustive list of terms recognized as generic to provide assurance on future market conditions. For example, the term “emmentaler” was confirmed as generic by the European Commission on August 1, 2025, when it refused protection for the Swiss “emmentaler” GI within the EU, illustrating the importance of clear guidelines for distinguishing between protected GIs and generic product names.

Compounding the bilateral barriers to trade that the European Commission’s approach to GIs has created, EU FTAs magnify this problem by imposing bans on the use of generic names in other countries’ markets. This impairs the value of concessions obtained by the United States in its own negotiations with those third country markets and has led to unjustified technical barriers to trade. The U.S. government must forcefully address the European Union’s efforts to impose restrictions on competition for products that long-ago entered into common use in the United States and many other countries around the world.

A proactive, comprehensive policy of negotiating protections for common food names by leveraging all trade negotiation opportunities is critical.

USDEC and NMPF urge the U.S. government to further its efforts to confront the clear lack of reciprocity in U.S.–EU dairy trade. While European dairy products enjoy broad, low-barrier access to the U.S. market, American exporters face a web of EU tariffs, complex certification rules, and shifting regulatory demands that make selling into Europe costly and uncertain. This imbalance is compounded by the EU’s efforts to export its restrictive standards globally, limiting fair competition for U.S. companies even in third-country markets. The United States must insist on genuine reciprocity, which includes ensuring that trade with the EU is based on science, transparency, and fairness, rather than protectionism disguised as regulation.

India

During 2024, the United States exported \$53 million worth of U.S. dairy products to India, a fraction of the potential opportunity that NMPF and USDEC see in this market were U.S. exports not held back by artificial barriers to trade, namely the unscientific and overly burdensome Indian dairy health certificate. In addition to high Indian dairy tariffs that are a hindrance to trade, India’s longstanding refusal to work in good faith to negotiate a viable health certificate for dairy products remains the largest limitation to U.S. exporters seeking to meet the growing dairy demands in this market.

Import Certificate Requirements

Since late 2003, most U.S. dairy exports have been blocked from the Indian market by the certificate requirements. Over the course of long-running discussions, the United States has provided considerable scientific data documenting the safety of U.S. dairy products, multiple compromise solutions to address India's concerns, and information demonstrating that many countries around the world accept U.S. dairy products and recognize them as safe. These products are the very same ones Americans safely consume daily. Despite this, India persists in refusing access for U.S. dairy products due to unscientific import requirements.

India's blatant protectionism has no justification. U.S. dairy exports of cheese, dairy proteins and other ingredients do not pose a competitive threat to India's dairy production portfolio that is primarily concentrated in fluid milk, cultured products and regional cheeses. The combination of unscientific certification requirements and prohibitively high tariffs renders U.S. dairy access to 18% of the world population virtually inaccessible. The Indian government's intransigence on market access and refusal to negotiate reasonable compromises is not based on any competitive or scientific grounds; it is merely a political decision. The continued misinformation about U.S. milk production and further closure of the market to U.S. exporters through ever more limiting import certification requirements is nothing more than an attempt to block all imports for contrived political means. India is not self-sufficient and millions of Indian consumers are prevented from consuming milk and milk products by the government actions. NMPF and USDEC urge the U.S. government to use all available leverage in trade discussions with India to secure meaningful concessions for what could be a valuable dairy export destination.

In 2019, USTR concluded that India is not fully complying with its Generalized System of Preferences (GSP) obligation to "provide equitable and reasonable access to [its] market" and in response, revoked India's GSP eligibility, a step that NMPF and USDEC continue to strongly support in light of India's actions on dairy and urge USTR to maintain should GSP at some stage be restored.

In 2020, India escalated its dairy trade barriers even further by for the first time extending its dairy certification requirement to Chapters 17 (lactose) and 35 (whey proteins) dairy products, thereby upending trade that has been taking place smoothly for many years without issue in the Indian market. This extension of the dairy certificate to those additional products was done without advance public notice and upended established sales relationships. It illustrated further the volatile nature of the Indian market and the lack of dependable trading conditions even for products not previously impacted by India's trade barriers.

Although a short reprieve on this new enforcement was in place through a limited exception for lactose and whey proteins destined for "non-food" for pharmaceutical or nutraceutical use, this allowance closed in November 2024 when the new India model certificate entered into force. As of this date, the new certificate became mandatory for all dairy products except

pharmaceutical lactose. I This updated certificate continues the problematic non-science-based requirements of the prior version and now requires all countries exporting to India to attest to meeting Indian requirements. The new certificate language does not appear to be a genuine attempt to facilitate trade according to SPS and TBT principles. Although the Indian government has delayed this new certificate's implementation several times, its entry into force one year ago blocks trade in all dairy products except for pharmaceutical lactose. Negotiations with India's government on alternative language thus far have not generated agreement, continuing the now decades-long stalemate on mutually acceptable language and continued insistence of attestations not based in science.

Plant Registration Requirements

In September 2024, the Indian government also began enforcement of its plant registration requirements and may also be looking to establish a country approval requirement. Both processes lack transparency. Although the plant approval requirements were notified to the WTO, many of the requirements are vague and leave open the possibility of discretionary enforcement. The U.S. government was also asked to complete a questionnaire on the U.S. regulatory system, though USDEC and NMPF are unaware of any new requirements for foreign country approval. The basis on which responses will be judged is unclear, as is the intent of such a request.

NMPF and USDEC urge USTR to press India for tangible market access for U.S. dairy products as the United States continues negotiations.

Indonesia

In 2024, the United States exported over \$247 million in dairy products to Indonesia, ranking it as the United States' seventh largest export market destination. NMPF and USDEC commend the U.S. government for securing a trade framework with Indonesia that appears to provide significant new market access for U.S. dairy exporters. Beyond Indonesia's commitment to eliminate 99% of its tariffs, the provisions related to recognizing the safety of the U.S. regulatory system and a commitment to implement a more transparent process for evaluating geographical indications and common names are very welcome developments. We look forward to working with the Administration to ensure full implementation and subsequent enforcement of the dairy provisions in this critically important dairy market. The negotiations are timely, as the United States currently is at a tariff disadvantage to Oceania suppliers due to their preferential access to the Indonesian market, and will soon face tariff disparities against EU suppliers given the recent conclusion of the EU-Indonesia FTA negotiations.

As USTR works to finalize the details of the U.S.-Indonesia agreement, the following nontariff issues remain relevant:

Plant Registration Issues

In order to export to Indonesia, dairy plants are currently required to register with the government to be on an approved list. In early October 2025, India completed approval of all pending U.S. dairy facilities' registration applications. This was a welcome move forward and the approval timeline for some companies involved was much swifter than historical timelines. As the U.S. has not yet published the details of how Indonesia will implement its Reciprocal agreement commitments on facility registration yet and it is unclear how Indonesia may handle future U.S. dairy facility applications, we provide the below information to outline the problems with the process over the past several years.

Historically, it has typically taken U.S. dairy plants more than three years for companies to access the market. One challenge, among many, in the system to date has been the exactingly narrow deadlines in which companies have to make payments while a broader concern is the multi-step evaluation process of plant registration reviews and the fact that these are conducted sporadically for only a small subset of plant applications at a time. Moreover, if issues or questions are identified with an application's details, the exporter has then been forced to wait several months or even over a year before the additional information is reviewed to learn whether their additional/revised information has resulted in approval or not. Even for companies that have successfully registered other U.S. facilities, it has previously not been possible to secure approval of a facility on the first attempt.

NMPF and USDEC are encouraged by the great work USTR and USDA have dedicated to securing a commitment from Indonesia to recognize the safety of the U.S. regulatory system and expedite the plant registration process. As the U.S. government works to finalize the trade framework's provisions, NMPF and USDEC urge USTR and its interagency partners to ensure Indonesia's full follow-through of its commitments relevant to plant registration.

Erection of De Facto Barriers to Trade Through Misuse of Geographical Indications

USDEC and NMPF commend the U.S. government for securing in the new trade framework between the United States and Indonesia important commitments for Indonesia to implement a fair and transparent process for handling geographical indications. We hope that provisions will result in ensuring that common cheese names are respected and remain available for use by all producers.

USDEC and NMPF strongly urge USTR to engage closely with Indonesian authorities to reinforce the importance of preserving the free use of common food names, particularly in light of Indonesia's finalized negotiations for the Comprehensive Economic Partnership Agreement (CEPA) with the European Union on September 23, 2025. Given the EU's continued efforts to monopolize common terms through its trade agreements, it is essential that Indonesia uphold its commitments to a balanced and transparent GI system that protects the right to use generic terms.

In an effort to bolster a network of likeminded organizations internationally and work to improve access conditions into Indonesia, USDEC and NMPF have advanced MOUs with two Indonesian associations in 2025: GAPMMI (Gabungan Produsen Makanan Minuman Indonesia), Indonesian Food and Beverage Association that represents and supports the country's food and beverage manufacturers; and (2) KADIN, the Indonesian Chamber of Commerce and Industry. The coordination between the two partners is focused on collectively growing dairy demand, supporting Indonesia's new school milk program and removing barriers to dairy trade.

Israel

Last year, the United States exported \$13 million worth of dairy products to Israel. The U.S.-Israel Trade Agreement is an important tool in making these sales possible given tariff levels for dairy products that can range up to 212 percent. NMPF and USDEC have for many years sought to deepen this trade agreement. Dairy trade flows are currently tightly constrained by small TRQs and high out-of-quota tariffs under the Agreement on Trade in Agricultural Products (ATAP).

NMPF and USDEC prefer to see the U.S.- Israel trade agreement revisited and expanded and were encouraged by an announcement in early 2025 that Israel was considering removing outstanding tariffs on U.S. products. As the United States pursues further negotiations, Israel should agree to provide full market access for all dairy imports from the United States, in line with the objective included in the original U.S.-Israel FTA. The market potential for U.S. exports of cheese to Israel is particularly strong, but many other U.S. dairy product exports would increase significantly as well if the agreement allowed for duty free trade. To protect opportunities for U.S. cheeses, safeguarding the use of common food names will be essential as well.

Japan

Japan ranks fourth among U.S. export markets for dairy products, valued at \$395 million in 2024. The trade relations have been positive, with Japan's sizable dairy tariffs presenting the largest barrier to greater U.S. exports to date.

U.S.-Japan Trade Agreement

USDEC and NMPF supported the implementation of the U.S.-Japan Trade Agreement that entered into force in January 2020. That agreement made important progress in expanding market access for U.S. dairy products and has helped mitigate the risk of U.S. companies slipping behind as Japan implements the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) and its FTA with the European Union. While the deal secured import

tariff parity with the United States' major dairy competitors on various whey, select cheese, lactose, and other dairy HTS lines, certain gaps remain in U.S. access which place U.S. suppliers at a disadvantage to those from the EU and/or New Zealand, or that tightly limit access for all suppliers.

NMPF and USDEC urge USTR to pursue further openings into the Japanese dairy market(e.g., for milk powder and butter, and the misc. dairy tariff codes where the U.S. still faces disadvantages to other suppliers), and pursue the nontariff commitments necessary to help provide for dependable trading conditions in the future.

Geographical Indications

In its FTA with the European Union, Japan granted GI status to a number of cheeses produced in the United States, including "feta," "asiago," "gorgonzola," and "fontina." In its implementing regulations for the terms, Japan crafted an overly narrow prior use period for terms like "asiago", "fontina" and "gorgonzola," and imposed an outright prohibition to the use of "feta," significantly undermining the ability of U.S. companies to export the products to Japan ultimately to maintain the possibility of future reassessment by Japan of whether the GI registrations were correctly granted. NMPF and USDEC are strongly disappointed that the time period covering prior use has not been aligned with the date of Japan's final decisions on the submitted GI applications.

In addition, NMPF and USDEC emphasize the importance of establishing explicit safeguards for the use of common food names in Japan. U.S. exporters welcomed the positive steps Japan took to reject restrictions on a number of common names (e.g., "parmesan," "romano," etc.), yet there exists a constant risk that those advances could evaporate in the future. For example, the recent publication on August 1, 2025, of a list of 13 new European geographical indications for food products seeking protection under the EU-Japan FTA includes common terms such as "halloumi," underscoring the persistent pressure to limit generic use.

To ensure long-term market access and legal certainty for U.S. dairy and food exporters, it is essential that the United States secure explicit assurances from the Government of Japan confirming that U.S. companies will retain the right to continue using common and descriptive terms in the Japanese market. Establishing such commitments would safeguard fair competition, prevent the monopolization of generic names, and reinforce Japan's reputation as a transparent and rules-based trading partner.

Kenya

NMPF and USDEC support the pursuit of a trade agreement with Kenya to remove tariff barriers into this high-dairy-consuming market and resolve the non-tariff barriers that further challenge access to this promising East African dairy market. Market access

restrictions for U.S. dairy product exports into Kenya include not only prohibitively high tariff rates but also multiple onerous nontariff requirements for importers:

Import Permit and Certification Requirements

Kenyan dairy importers are required to submit a standardized sanitary certificate and obtain a “Letter of No Objection to Import” permit from the Kenyan Department of Veterinary Services (DVS). The permits are reviewed on a case-by-case basis. As part of that process, the DVS requires importers to submit a “Letter of Application to Import” and specify the market need for the product. Applications for milk and dairy products must satisfy the requirement that the processing facility be approved by the “highest veterinary authorities of the country of origin.” (Note that U.S. dairy facilities are overseen by FDA, not by USDA veterinary authorities.) Once an application is submitted, importers may only begin receiving the product if the DVS issues a no-objection letter. Although the Kenyan government claims applications to import are only rejected over sanitary concerns, importers have reported that the DVS has informally cited local availability of certain dairy products as grounds to reject an import application. USDEC and NMPF view the import application as an unnecessary barrier to trade and encourage broad recognition of all dairy facilities already approved for operation in the United States.

With respect to Kenya’s sanitary certificate, NMPF and USDEC recommend USTR work to secure agreement on the use of the standard AMS certificate for U.S. products as this provides all the reasonable assurances necessary.

Further impeding ease of access for U.S. products into Kenya is a required Certificate of Conformity from a Kenya Bureau of Standards appointed “pre-export verification of conformity” partner and the obligation to obtain an Import Standards Mark (ISM) for certain sensitive imports. Goods subject to this requirement include dairy products and related food preparations of HTS 0401-0406, infant formula (HTS 1901), ice cream (HTS 2105), and dairy-based beverages (HTS 2202.90). Imports entering Kenya without a Certificate of Conformity are subject to a destination inspection penalty fee of 15% of the customs value and only allowed entry into the market after completion of tests. USDEC and NMPF recommend USTR seek removal of this requirement as it appears to be yet another regulatory tool used to impede access rather than a food safety control measure.

Minimum Shelf-life Requirements

Kenyan food imports are required to have a minimum of 75 percent shelf-life remaining on the label. Given the highly perishable nature of some dairy products and long U.S. lead times for shipments, the regulation serves as a de facto prohibition of certain dairy product imports. Moreover, the shelf-life requirement is notably higher than is typical and certainly exceeds what is needed from a food safety perspective. USDEC and NMPF urge USTR to negotiate shelf-life standards more in keeping with standard practices.

Korea

Korea was the United States' fifth largest dairy export market in 2024, valued at \$386 million. All major dairy suppliers have FTAs with Korea, one of the world's biggest cheese importers. The U.S.-Korea (KORUS) FTA has allowed the United States to maintain its export share in the market. Without it, U.S. cheese exports to Korea would be subject to the pre-FTA tariff of 36 percent, while all key competitors could keep shipping most of their products duty-free. Preserving U.S. market access to this market is a key priority for the U.S. dairy industry in the ongoing reciprocal trade negotiations. Remaining tariff barriers are marginal, with the only remaining limitation being a quota for nonfat dry milk / skim milk powder with prohibitively high tariffs for over quota access. While nontariff issues are likewise limited, certain concerns exist:

Product Registration Protocols

Korea does not allow imports of lactose-hydrolyzed milk and lactic acid bacteria-added milk from the U.S. because these products had no prior export history when Korea's *Special Act on Safety Management of Imported Food* took effect in 2016. Under the Act, Korea required food safety assessments and plant registrations for livestock/dairy imports. To avoid trade disruptions, Korea "grandfathered in" products with an export history prior to 2016. Since the U.S. had never exported these two product categories, they were excluded.

Adding a new category now requires a full food safety assessment and onsite audit, which only the U.S. government (not industry) can request. The process is lengthy, first-come-first-served, and Ministry of Food and Drug Safety (MFDS) has pending applications from other trading partners. This requirement is despite a comprehensive food safety assessment and onsite audits of U.S. dairy plants that were already conducted in 2017. The Korean assessment of U.S. dairy plants encompassed the entirety of the U.S. dairy safety system (and not select dairy products), so new assessments should not be required.

The U.S. government should press Korea to expand access for *all* U.S. dairy products—invoking the science-based, risk-assessment obligations under the SPS chapter of KORUS—on the grounds that U.S. dairy safety oversight applies equally across product categories.

Geographical Indications and Common Food Names

Korea has provided both positive and negative examples of how countries may handle the issue of geographical indications. As part of the EU-Korea FTA, Korea banned the import of several commonly produced U.S. foods if they were labeled using their common names, a move that has negatively impacted U.S. exporters. For other products, U.S. exporters have benefited from the clear agreement reached in prior years between the governments of the United States and Korea, which provides clarity regarding the status of several common names contained in multi-term GIs. The understanding regarding multi-term GIs has allowed the United States to capture most of the intended benefits of the FTA, although the remaining single-term restrictions have curtailed some of the opportunities that U.S. companies had

hoped to develop in the market. Since the FTA, the European Union has pursued additional GI restrictions in Korea. To avoid more limits on U.S. exporters' market access opportunities in this FTA partner market, NMPF and USDEC strongly urge the need to secure further explicit recognitions of U.S. exporters' rights to use common food names moving forward.

As the United States finalizes reciprocal trade negotiations with Korea, NMPF and USDEC urge the resolution of the new product listing issues, preservation of the existing market access and assurances for the free use of generic cheese names.

Malaysia

In 2024, the U.S. exported \$118 million in dairy products to Malaysia. The trade relationship is positive, and the trade agreement secured by the Administration on Oct. 26 provides an important opportunity to further grow exports to the market. NMPF and USDEC commend the Administration for securing important commitments to reduce both tariff and nontariff barriers alike in the agreement.

The new U.S.-Malaysia agreement includes an important provision that removes what had been a burdensome process of registering a U.S. dairy plant and renewing it every three years. The agreement removes this hurdle with a commitment from Malaysia to "recognize the U.S. dairy-safety system as providing at least the same level of protection as Malaysia's dairy-safety system" and register U.S. dairy facilities based on those approved by USDA. Malaysia also commits to allow imports under a USDA AMS dairy sanitary certificate, preempting future certification changes that could upend trade.

The agreement also includes new provisions that grant any U.S. Halal certifier designated by JAKIM as meeting Malaysia's Halal requirements as eligible to certify food and agricultural products as Halal. Importantly, Malaysia also agrees to "not enter into agreements of understandings with third countries that include non-scientific, discriminatory or preferential technical standards or third-country SPS measures that are incompatible with U.S. or international standards." The provision is especially timely given the resumed FTA negotiations between the European Union and Malaysia in January 2025.

Geographical Indications and Common Food Names

NMPF and USDEC commend the Administration for securing a gold-standard agreement related to the protection of common food names in the trade agreement. With Malaysia relaunching FTA negotiations with the European Union, the United States' right to use a series of generic terms was at immediate risk. The U.S.-Malaysia agreement sets an excellent template for how common names can be best protected, including (1) a list of terms frequently at risk that Malaysia explicitly agrees to protect; (2) a commitment to approach GIs in a fair process, including by not recognizing a predetermined list of GIs; and (3)

groundbreaking due process standards to ensure a balanced and transparent process regarding any new GI applications.

NMPF and USDEC look forward to working closely with USTR as the trade agreement is implemented and encourage diligent enforcement of the provisions, particularly as the EU-Malaysia trade negotiations advance.

Mexico

Mexico is the most important market for the U.S. dairy industry, accounting for over a quarter of annual exports. Last year the United States shipped \$2.49 billion worth of dairy products to Mexico, up from just \$124 million in 1995. NAFTA, and now USMCA, have been fundamental to this growth. As the United States enters into the upcoming USMCA 2026 Review, it is imperative that this important trade relationship is preserved.

NMPF and USDEC have developed a strong partnership with the Mexican dairy industry to expand dairy consumption in a way that benefits both countries. That collaboration is reaffirmed on an annual basis with the mutual goal of broadening overall demand for and bilateral trade in dairy to the benefit of both industries. Since 1994, Mexican milk production has increased considerably, which has helped meet the ever-increasing demand of Mexican consumers and visitors to Mexico while at the same time continuing to provide market opportunities for American producers as well. Together, the two countries have grown consumption at a reasonable price for both the Mexican and U.S. consumer.

In recent years there have been some regulatory proposals that threaten to disrupt trade with Mexico. This has created uncertainty among importers and manufacturers. Several areas of notable concern are cited below.

NOM 222 Milk Powder Regulation Revisions

On April 30, 2024, the Secretariat of Economy released a report on the systematic, five-year review of NOM 222, deciding to confirm the applicability of the technical regulation for five more years. As such, the NOM is not expected to be modified soon. Nevertheless, concerns remain with respect to the redundant nature of the requirements to comply with the regulation. U.S. companies are experiencing challenges related to the enforcement of NOM-222 and its Conformity Assessment Procedure (CAP), which must be completed at the point of entry into the country. Application of the CAP places a greater burden on U.S. milk powder exporters to Mexico than on producers of similar products of national origin, raising potential concerns under national treatment provisions. In addition, the Mexican government has yet to resolve technical issues faced by exporters with the online mandatory laboratory registration system and product testing, which has caused unnecessary delays in importation.

NOM 223 Cheese Regulation Revisions

Mexico included in its Annual Regulatory Agenda for 2025 (National Quality Infrastructure Plan) the intention to amend the NOM-223, which has been in force since January 2020, in order to: (1) remove caseinates from the list of permitted ingredients in cheese production; (2) reserve the term “cheese” solely for products made from 100% milk as opposed to vegetable based substitutes; (3) regulate processed and imitation products; and (4) include a conformity assessment procedure (CAP). At this stage, the amendment process has not yet started and will likely not be subject to review in 2025, which also ensures no mandatory CAP will be applicable to the importation of cheese in the near future. It is important to ensure that any revisions to NOM 223 do not negatively impact U.S. dairy export access to Mexico.

NOM 181 Yogurt

The Mexican government completed the rulemaking process for amending the NOM 181 regulation in 2023. To date, the final version of the NOM has not been published, some lingering concerns raise about a potential new rule-making process to amend the regulation. At this stage, however, there is no indication that the Mexican government intends to initiate any related rule-making process in 2025 or 2026.

Front of Pack Labeling Regulations

In October 2020, Mexico’s NOM 51 regulation took effect, mandating the use of a new system of front-of-pack (FOP) labeling for pre-packaged food and non-alcoholic beverage products. The regulation requires the use of warning symbols for products deemed to be high in sodium, sugar, fat (saturated and trans), and/or calories. A key underlying concern with the regulation is that it misrepresents nutrient-rich foods since nutrient rich and nutrient poor foods of the same category must carry identical warning labels. The transitory provisions of the NOM contemplated three consecutive phases for the evaluation and calculation of critical nutrients and the determination of the need to display warning symbols in the label.

On July 31, 2025, Mexico announced that the implementation of Phase Three has been postponed until January 1, 2028, to allow the NOM amendment rule-making process to be completed. Meanwhile, the current Phase Two requirements will remain in place until December 31, 2027.

On a parallel track, in May 2025, Mexico decided to start the rulemaking process to amend section 4.5.3 of NOM-051 and repeal Phase Three. A notice for a 60-day public consultation of the draft amendment is expected to be published in October 2025.

Access for Raw Milk for Pasteurization

Despite open and smooth access to Mexico for the vast majority of the \$2.49 billion in dairy

exports shipped last year, the United States has been blocked from exporting raw milk for pasteurization to Mexico since mid-2012. In 2012, Mexico changed its regulatory requirements for this product which cut off trade. Prior to that, Mexican processors had pasteurized the milk upon receipt and used it both for fluid drinking milk and to make value-added products, such as cheese. Mexican processors used the U.S. exports of raw milk for pasteurization not to displace local production, but rather to supplement it, particularly in times of production shortfalls in Mexico due to drought conditions or other agricultural factors. This issue was not resolved during the USMCA negotiations, and NMPF and USDEC encourage the United States to restore access for this product to the Mexican market.

Geographical Indications and Common Food Names

NMPF and USDEC commend USTR's work to include a non-exhaustive list of products to be safeguarded from future GI restrictions in a USMCA side letter and for the additional side letter establishing a broad definition of prior users for the use of certain terms. Diligent oversight and enforcement of both commitments will be essential to ensuring their full benefit.

To maintain this positive and free-flowing dynamic, NMPF and USDEC urge the Administration to use the upcoming 2026 USMCA Review to ensure Mexico at last fully implements the agreements' protections for U.S. companies relaying on common food and beverage names to market their products. This priority holds new urgency now that the EU-Mexico agreement—which threatens to impede the use of various common names—is advancing toward implementation.

The first Trump Administration specifically negotiated these commitments to preserve U.S. market access into Mexico in response to the European Union's push for abusive geographical indication (GI) protections through its own trade agreement with Mexico. USMCA included multiple safeguards to blunt the impact of those EU-driven restrictions. With the EU-Mexico trade agreement now advancing, allowing Mexico to continue on its current path would undermine those safeguards and risk eroding that access.

Unfortunately, recent developments in Mexico's intellectual property system have amplified those concerns, and once more raised red flags regarding its adherence to USMCA's common name commitments. For instance, Mexico has still not issued implementing regulations for its Federal law of the Protection to Industrial Property (FLPIP) and is moving forward with amendments to the law that could undermine the use of common names. Decisions by the Mexican Institute of Industrial Property (IMPI) regarding how to handle common names favor the EU's approach and are driving a "GI-friendly" IP policy, including by extending protection to certain foreign GIs even when those GIs have not been officially recognized and registered in Mexico (e.g., feta).

There are key areas where work is needed with Mexico to follow through on its implementation of USMCA commitments:

Mexico's Lack of Full Implementation of USMCA IP Chapter GI Provisions

Mexico has failed to implement in Mexican law Articles 20.30 to 20.36 of USMCA, which require fair, and transparent processes for GI protection or recognition, including direct applications, minimal formalities, public notice, and opportunities for opposition or cancellation based on clear grounds. Among other things, these provisions are intended to ensure that common names remain in the public domain and that GI registrations are not misused to unfairly restrict legitimate commercial use or create unjustified monopolies.

Full implementation of its USMCA GIs and common names commitments takes on new-found urgency with the Sept. 2025 movement by the EU to advance consideration of its modernized EU-Mexico FTA. The agreement contains various GI elements that will negatively impact U.S. export opportunities absent further work by the U.S. with Mexico to address these concerns.

Beyond only the USMCA compliance areas outlined here, we urge USTR to explore any opportunities to preserve the full range of access for U.S. dairy exports to Mexico.

USMCA Implementation Areas:

- Insufficient transparency with respect to GI applications. FLPIP Articles 281 and 319 relating to transparency for opposition and comment purposes are insufficient to implement all transparency disciplines outlined in USMCA articles 20.9, 20.30.d), 20.35.1.a) and 20.35.1.b), since they do not allow stakeholders to review the status of applications at any given time, and do not ensure that Mexico publishes online the details of the terms it is considering protecting GIs through an international agreement.
- Lack of guidelines for determining common names. The FLPIP lacks guidelines to determine whether a term is a common name, as required by USMCA Article 20.32, risking improper GI protection of widely used terms. Moreover, the FLPIP provides no guidance on common names within compound GIs, risking overly broad protection.
- No equivalent procedures for the protection or recognition of GI translations and transliterations. The FLPIP fails to include procedures for the protection or recognition of translations and transliterations of GIs (as well as grounds for opposition and cancellation), as required by USMCA Article 20.31.5.

Mexico's Failure to Implement USMCA's Side Letter on Cheeses

Although Article 271(II) of the FLPIP excludes generic or common terms from GI protection, there are no clear mechanisms in Mexico's regulations to enforce this obligation, particularly not the commitments detailed in the USMCA Side Letter on Cheeses, which lists certain terms as free for use in the Mexican market.

Mexico's Failure to Implement USMCA's Side Letter on Prior Users

The FLPIP also fails to include a definition of “prior user” that aligns with Mexico’s commitments under the USMCA, particularly those established in the Side Letter on Prior Users. This omission creates a significant legal gap, as it prevents the consistent and transparent identification of parties whose legitimate rights predate the recognition of a GI. Consequently, Mexico risks granting GI protection in a manner that unduly overrides the pre-existing rights of prior users—denying them the ability to incorporate such terms into trademark registrations or to continue their lawful use of these terms in the labeling and marketing of their products. Such protections could, in practice, invalidate or unreasonably restrict rights that were legitimately acquired by domestic or foreign producers, traders, and distributors.

Proposed Amendments to Domestic Legislation

In August 2025, the IMPI published in the Official Federal Gazette (DOF) the “Agreement establishing actions to simplify and improve administrative procedures carried out before the IMPI.” While the stated purpose of this Agreement was to streamline administrative procedures, it significantly reduced the requirements applicable to the registration of foreign protected appellations of origin (AOs) and GIs in Mexico. In doing so, the Agreement eliminated or simplified several key elements that are essential to properly assess whether a foreign-protected term meets the conditions for recognition under Mexican law, particularly those listed under article 316 of the FLPIP regarding to the name, translations, transliterations, geographical zone and rules of use.

- Under the revised framework, applicants are now required to submit only the document granting protection in the country of origin. This minimal requirement disregards Mexico’s obligations under the USMCA’s articles 20.9.2, 20.30 and 20.35.1, requiring transparency and due process in the GI recognition process. Each foreign application should undergo a formal evaluation to determine its eligibility for protection in accordance with fundamental principles of territoriality and the rule of “first in time, first in right.”
- In September, the Mexican Senate published a proposed amendment that halved the opposition period for recognizing a GI from 60 to 30 days. This proposal raises concerns about Mexico’s compliance with USMCA, particularly Articles 20.30 and 20.31, in which Mexico committed to providing a reasonable period of time for any third party to file an opposition. Reducing this period undermines transparency in the process, as it does not allow interested parties- especially foreigners- sufficient time to become informed and to prepare a well-founded opposition. Such a change limits the effective exercise of third-party rights and may compromise the principle of due process and equitable access to legal remedies, as required under international trade agreements.

Automatic Protection of Foreign GIs through the Lisbon Agreement

Through Mexico's participation in the World Intellectual Property Organization (WIPO) Lisbon Agreement on Appellations of Origin and Geographical Indications (Lisbon Agreement), several terms corresponding to common names have been restricted in the Mexican market without the observance of a transparent and legally grounded domestic procedure. In practice, the recognition of these foreign GIs has been automatic, relying solely on their international registration, without prior publication in Mexico or the establishment of an effective mechanism for parties to oppose their recognition.

- This automatic recognition process bypasses essential guarantees of transparency, due process, and the right to be heard, as required under both Mexican administrative law and the USMCA. Collectively, these impact U.S. producers of “asiago,” “feta,” “fontina,” “gorgonzola,” “gruyere,” “munster” and “neufchatel” cheeses, thereby nullifying and impairing prior market access rights granted by Mexico to the United States under NAFTA and under the WTO agreement for those products.
- On a related matter, concerns have arisen regarding decisions issued by the IMPI refusing trademarks based on foreign GI recognition, such as the refusal to register a trademark containing the term “feta.” The refusal was based solely on the existence of the GI recognized in Greece, despite the fact that this GI has not been granted recognition or protection in Mexico through any of the procedures established under domestic law or applicable international agreements. It is important to note that “feta” is protected as a GI under the Geneva Act of the Lisbon Agreement—an instrument to which Mexico is not a party. Furthermore, while “feta” is included among the GIs proposed for protection under the Modernized EU–Mexico FTA, that agreement has not yet been signed or entered into force.

Imminent Entry into Force of the EU-Mexico FTA

In January 2025, Mexico and the EU officially announced the political conclusion of the modernization process of the EU–Mexico FTA. As part of this, both parties agreed to extend protection to more than 340 EU GIs. However, the inclusion of these GIs in the FTA does not exempt them from the domestic procedures required under Mexican law and Mexico's international obligations.

In particular, the list of GIs agreed upon with the EU must remain subject to the procedures for registration, opposition, and cancellation established in Articles 20.30 and 20.31 of the USMCA. Pursuant to Article 20.35 of the USMCA, when a Party grants protection to a GI under another international agreement, but such GI has not yet been registered in accordance with its own domestic procedures, that Party must apply at least equivalent procedures and grounds for refusal, opposition, and cancellation. These safeguards are intended to ensure transparency, due process, and the fair evaluation of potential conflicts with pre-existing rights.

Considering the foregoing, USMCA and its provisions have served as a crucial safeguard for preserving the free use of common names by American producers and other stakeholders. The agreement provides a balanced framework that promotes fair competition, transparency, and respect for prior rights, while preventing the undue monopolization of terms that have entered the public domain or are widely used in commerce.

While the trade concerns above are ripe for addressing in the USMCA 2026 Review, the pivotal role that USMCA holds in preserving access to the United States' most important dairy export market cannot be understated. As such, NMPF and USDEC strongly urge the Administration to continue upholding and actively advocate for the preservation and full implementation of USMCA.

Morocco

The United States exported nearly \$11 million worth of dairy products to Morocco in 2024. The U.S.-Morocco Trade Agreement is a key tool in making a wider range of sales opportunities possible, which NMPF and USDEC strongly support.

Geographical Indications and Common Food Names

NMPF and USDEC are particularly interested in ensuring that Morocco does not restrict access to the cheese market opportunities made available through this FTA by imposing unjustified GI provisions that restrict the use of products the United States produces and wishes to retain the rights to export to Morocco, now and in the future. In January 2015, Morocco and the European Union announced that they had reached an agreement on GIs. The agreement, which is broader in scope than any previous agreement of its kind, requires each party to protect all GIs that were registered in the other party before January 2013. NMPF and USDEC urge the Administration to secure assurances regarding the types of products the United States will continue to be permitted to ship to this FTA partner and to preserve the value of the market access package that the United States negotiated with Morocco.

Facility Registration Requirements

In addition, Morocco implemented regulatory changes that could upend U.S. dairy exports to the market if they are enforced on U.S.-origin shipments. The regulatory changes do two things of primary concern:

- Require dairy exporters to register directly with Morocco's government or for the U.S. government to register facilities directly with Morocco's government. All registered plants must meet Morocco's regulatory requirements.

- For the purpose of plant registration, require dairy facilities to present a Certificate of Conformance, issued by the exporting country's competent authority, attesting that the products are in compliance with Morocco food safety regulations.

USDEC and NMPF urge the U.S. government to advance formal systems recognition between the United States and Morocco to replace the competent authority's Certificate of Conformance requirement and to enable smooth listing by Morocco of all U.S. facilities in good regulatory standing. Additionally, the organizations ask that the current U.S.-Morocco dairy export certificate that was negotiated in 2015 – or the standard AMS dairy certificate – be accepted instead of a Certificate of Conformance for the registration of U.S. dairy plants.

Panama

Last year, the U.S. exported \$100 million worth of dairy products to Panama. The U.S.-Panama Trade Promotion Agreement (TPA) is an important tool in making these sales possible and NMPF and USDEC strongly support it.

One of the most important elements in the TPA, aside from its tariff benefits, was the set of commitments made by Panama to in the SPS and Technical Standards section that establishes the following assurances:

- *“Panama recognizes that the U.S. sanitary, phytosanitary, and related regulatory systems are equivalent to those of Panama for ... all other processed products, including but not limited to dairy products, intended for human or animal consumption.*
- *Panama further recognizes that the U.S. food safety regulatory system for all processed products, including but not limited to dairy products, intended for human or animal consumption is equivalent to Panama's regulatory system for those products, and shall not require, as a condition for the importation or sale of those products, approval of individual U.S. establishments by any Panamanian authority.*
- *Panama shall not require certification of individual shipments, including sanitary or phytosanitary certification, or import licensing or permitting, as a condition for the importation or sale of any processed products, and*
- *Panama shall not require any product registration as a condition for the importation or sale of any agricultural product of the United States that is accompanied by the appropriate export certificate issued by a U.S. authority; a Certificate of Free Sale issued within the last 12 months by a U.S. state, federal, or other authority; or a Supplier's Declaration on the manufacturer's or supplier's letterhead stationery attesting that the product is fit for consumption in the United States. For other agricultural products of the United States subject to product registration requirements of the Panamanian Food Safety Authority,*

Panama shall issue automatically, free of cost, and within one working day of receiving basic product information about a product, a product registration statement containing a product registration number, which shall remain in effect as long as the information provided remains unchanged.”

Panama established a new agency process (single window) in January 2025 for the verification and regulation of food imports. It will be critical to ensure that new regulatory requirements are not erected that contradict the strong and clear protections the United States secured in the FTA specifically in order to ensure that as tariffs decline, SPS/TBT barriers do not spring up to take their place in this market and deny access to U.S. exporters. USDEC and NMPF urge the U.S. government to ensure that the TPA is fully enforced, including the provisions governing U.S. facility registration, which recognizes that all U.S. facilities are approved to export to Panama without a plant registration permit.

Peru

Last year, the U.S. exported over \$123 million worth of dairy products to Peru. The U.S.-Peru Trade Agreement is an important tool in making the sales possible and NMPF and USDEC strongly support it. However, certain technical barriers to trade threaten to limit the potential for U.S. exports to this growing dairy market.

Reconstituted Milk Labeling

One such example is a Peruvian regulation concerning labeling of milk products made with milk powder that went into effect in 2022. All fluid products previously using the word “milk” and using milk powder as an ingredient had to be renamed under the legislation. The record is clear that the regulations were introduced with the goal of undermining imports, not to support clear information for Peruvian consumers. Peru is a milk deficit country, where U.S. milk powder plays an important role in providing an affordable and nutritional food source to a large segment of the population.

Geographical Indications and Common Food Names

On another front, as part of the Peru-EU FTA, Peru granted protection to commonly produced U.S. products and products that were generic in Peru such as “feta” and “asiago.” This action violated WTO rules and impaired the value of concessions granted to the United States under the U.S.-Peru FTA, which pre-dated the EU agreement. NMPF and USDEC remain concerned by the impact of these actions on the United States’ ability to fully recognize the benefits of the FTA. The organizations urge pursuit of clear protections for common names in this market.

As the Peruvian market continues to serve as a growth opportunity for U.S. dairy exports,

NMPF and USDEC urge the U.S. government to ensure that barriers to trade, including discriminatory labeling requirements or prohibitions on the use of generic cheese names, do not limit U.S. export opportunities to this market.

Philippines

Last year, the United States shipped \$365 million worth of dairy products to the Philippines, ranking it as the sixth largest U.S. dairy export destination. The Philippines has to date been a strong trading partner and NMPF and USDEC support the announced trade framework that includes a commitment from the Philippines government to remove tariffs. It has been a reliable market for U.S. dairy exports, yet U.S. dairy exporters face heightened competition due to the ASEAN – New Zealand – Australia FTA that provides better access for Oceania to this critical market than it does to the United States.

Geographical Indications and Common Food Names

Related to nontariff trade barriers, the Philippines has historically demonstrated a deliberative approach of carefully evaluating changes to its GI regulations. Like in the United States, there are numerous Philippine companies that would also suffer from overly broad GI restrictions that negatively impacted the use of common names and distorted trade. NMPF and USDEC commend the U.S. government's engagement to date with the Philippines, including the commitment secured via the Trade and Investment Framework Agreement (TIFA) process that ensures the Philippines will not automatically recognize GIs via a trade agreement. However, the 2022 Philippine Rules and Regulations on Geographical Indications problematically favors a European-like system to protection GIs, threatening the ability to use common terms to label products.

Compounding the concerns is the announced resumption of trade negotiations between the European Union and the Philippines, which is likely to include the imposition of additional trade barriers via the European Union's misuse of geographical indications. NMPF and USDEC urge continued U.S. government engagement throughout the reciprocal trade negotiations to ensure that GIs that would impact the use of common terms are rejected and to secure implementation of a fair and balanced due process to evaluate new GI registrations in this valuable and growing dairy market.

Qatar

Last year the United States exported \$8.7 million of U.S. dairy products to Qatar despite an ongoing nontariff barrier issue.

Shelf-Life Requirements

Qatar regulations impose shelf-life requirements on various dairy products in a manner that appears to be clearly designed to shelter a domestic dairy firm and hinder imports. The regulation spells out rules for long life milk (UHT), requiring imports to have a maximum shelf-life of three months from the date of manufacture. UHT milk usually has a shelf-life of at least six months. The regulation also requires imports to have a minimum shelf-life of 80% of shelf-life remaining (i.e., no less than approximately two months and twelve days) at the time of import. UHT milk is often sold in retail containers directly to the public without undue delay upon import. If the product has shelf-life remaining at the time of import, it would be safe for consumption.

Additionally, the regulation imposes shelf-life requirements on all kinds of white cheese. As stipulated in the regulation, white cheese imports are required to have a maximum shelf-life of 45 days from the date of manufacture. This 45-day shelf-life requirement is unrealistic as it groups together different types of “white cheese” which have different shelf-life requirements, and many “white cheese” varieties, like cream cheese, generally have a maximum shelf-life greater than 45 days. “White cheese” is not a type of cheese, it is simply a color of cheese, a factor that does not impact the cheese’s shelf-life. Instead, the shelf-life depends on several factors, including processing (e.g., aging), intrinsic characteristics (e.g., moisture content), packaging, and storage. This impacts even products with a considerably long shelf-life such as frozen mozzarella for pizza usage (the regulation’s “all sizes and types of Mozzarella cheese” category also lists a maximum shelf-life of 45 days). Given the reality of shipping times and the unscientifically narrow window this creates for trade, this barrier to exports has presented considerable problems.

NMPF and USDEC encourage USTR to work with the Qatari government to repeal this regulation. Alternatively, if the regulation cannot be repealed, NMPF and USDEC strongly recommend amending the regulation to address the trade barriers it has erected by aligning the shelf-life requirements with customary minimums that have a demonstrated relationship to food safety and quality.

Russia

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

Prior to the abrupt market closure in 2010, Russia was a growing market for U.S. dairy exports, with an increase of 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 the spring of 2014, the United States 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 and when the Russian ban on U.S. agricultural imports took effect in August 2014. That mandate continues to block the limited number of dairy products not subject to the ban on U.S. products from entering the Russian market.

NMPF and USDEC strongly 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 European Union into other global markets where those products have heightened competition for buyers. Russia's outright ban on products from the United States and other major suppliers for purely political reasons appears to be in violation of its WTO commitments.

However, if the ban were to be lifted, the U.S. dairy industry would still be cut off from the Russian market due to the facility listing requirement Russia is maintaining in violation of its WTO accession commitments. Russia's approach to facility listing remains a trade impediment and serious concern that will ultimately need addressed, separate and aside from any future action on the U.S./EU/Australian products import ban.

Saudi Arabia

U.S. dairy exports exceeded \$107 million in 2024 to Saudi Arabia, demonstrating that there is growing market opportunities in the market. Tariffs remain an impediment to further growing U.S. exports and USDEC and NMPF urge the U.S. government to prioritize tariff reductions as it engages in trade negotiations with the Saudi government. Several nontariff barriers also serve as a barrier to trade that should be addressed in any negotiations:

Dairy Facility Listing Requirements

In 2022, Saudi Arabia (KSA) WTO notified a process that establishes requirements related to pre-export approval required for the export of animal origin products, including dairy. KSA lists an overseas audit as part of the requirements, and it expects the interested establishments and countries to pay for travel expenses. The competent authority is asked to provide the KSA a list of approved establishments meeting Saudi Arabian requirements. NMPF and USDEC urge USTR and its interagency partners to press for a broad systems recognition of the U.S. regulatory processes. The U.S. government should seek flexibility in the evaluation of food control systems if their components, although designed and structured differently, may be capable of meeting the same objective, in accordance with Codex principles. Should an overseas visit be required as part of the approval of the U.S. regulatory system, the United States should secure agreement on a systems audit in which a representative sample of plants are visited in lieu of plant-by-plant inspections. USTR and USDA should seek approval of all dairy and food plants meeting U.S. government

requirements and a grandfathering of all plants that have exported to the KSA over the last five years as approved while the details of the regulations are sorted out.

Halal Certificate Protocol Change

In September 2024, Saudi Arabia's Saudi Food & Drug Authority's (SFDA) Saudi Halal Center issued a circular to Halal Certification Bodies (HCBs) announcing that on Oct. 1, 2024, all Halal certificates for shipments to Saudi Arabia must be issued through a new Saudi Halal Center portal. This change was not notified to the WTO and the information currently available on the specific requirements comes from a Saudi circular that is lacking necessary information as well as informational webinars hosted by SFDA. Initial feedback from FAS indicated that SFDA will continue to recognize Halal certificates issued by approved HCBs and that the list/categories of dairy products requiring Halal certification is not changed. The Saudi enforcement of its Halal requirements to date 2025 appears to align with that.

However, these implementation choices are not confirmed in writing. the lack of clarity in the circular, quick implementation time, and new fees charged to companies wishing to be in compliance with Saudi Arabia's Halal regulations, resulted in uncertainty in the market and exporters facing additional expenses and regulatory burdens. While no discernable, and long term, market disruption has yet happened, the potential exists for market disruptions to occur if Saudi Arabia makes any additional changes to its Halal regulations, especially if Saudi Arabia once again implements them with little to no prior notice.

As revised model health certificates were included as part of the current GCC Import Guide, and Saudi Arabia is in the process of creating/implementing new health certificates different from those in the GCC Import Guide, NMPF and USDEC urge the U.S. government to secure acceptance of the standard AMS sanitary certificate or certificates drawing on existing AMS-issued attestations for dairy exports from the United States.

NMPF and USDEC support U.S. government work with the GCC countries, as a bloc and individually, to address the harmful trade impacts that would result from implementation of the Guide and commend their good work in keeping this important market open to date. As that work proceeds, NMPF and USDEC urge the U.S. government to ensure it is providing sufficiently detailed information to GCC countries regarding how the U.S. dairy food safety system operates and its consistently high results with the goal of securing approval by GCC countries of the continued use of the current AMS-issued standard dairy sanitary certificate.

Singapore

Last year the United States exported \$72 million worth of dairy products to Singapore. The U.S.-Singapore Trade Agreement is an important tool in making these sales possible and

NMPF and USDEC strongly support it. Singapore is a critical South-East Asian trading hub, making the United States' agreement with Singapore quite important, not only to trade with this country, but also throughout the region.

Geographical Indications and Common Food Names

Given Singapore's deeply pro-trade approach, trade concerns have been very limited. However, one area of concern is the impact on Singapore's cheese market opportunities from GIs inappropriately registered for protection due to their inclusion in the Singapore-EU FTA. While the Singapore intellectual property system provides some tools for challenging those decisions, the exorbitant cost of that system has direct and negative impacts on the ability of stakeholders to defend their rights when intellectual property examiners do not sufficiently carry out their responsibilities of clearly preserving generic terms.

NMPF and USDEC ask that the U.S. government seek protections for common food names as it moves forward with reciprocal trade negotiations in Singapore to preserve market access for U.S. cheesemakers moving forward.

South Africa

Due in large part to high tariffs, U.S. dairy exports to South Africa totaled only \$11 million last year. Nonetheless, it is important to ensure that U.S. companies able to sell into this challenging market be permitted to continue to do so. Recent steps by South Africa put even the limited sales at risk. We urge USTR to pursue opportunities to remove these tariff and nontariff impediments to U.S. dairy exports to South Africa.

Permit and Certification Requirements

In addition to tariffs, market access into South Africa is potentially threatened by unrealistic permit and certificate demands. In April 2024, South Africa's Department of Agriculture, Land Reform and Rural Development (DALRRD) proposed a revision to the import permit and health certificate for U.S. dairy shipments to require U.S. government veterinarians to physically place an official seal on all shipping containers following communication of these expectations one year prior. This proposal came even after the U.S. government sent DALRRD a detailed explanation of the U.S. systems-based regulatory approach in which U.S. facilities are subject to regular inspections by the relevant authorities.

It was unclear whether DALRRD is targeting the United States with this regulatory interpretation. The current certificate that APHIS endorses for dairy shipments to South Africa is comparable to certificates of other dairy exporting countries, and the language on the certificates does not include a requirement for official seals. South Africa has also not issued a WTO notification advising that official seals are required for dairy imports, nor have they ever imposed such a requirement on imports from the United States in prior years.

To date, DALRRD has continued issuing import permits and accepting the current APHIS certificate for dairy imports into the country. However, should they move forward to enforce the proposed import permit and certificate revision, the potential exists for market closure for dairy imports from the United States.

Switzerland

U.S. dairy exports to Switzerland last year totaled only \$7 million due to a complex system of high tariffs and import certification requirements mirroring the European Union's intentionally protectionist system. In contrast, the United States imported \$130 million in dairy products from Switzerland. Any negotiations with Switzerland should focus on leveling the playing field for U.S. dairy exporters and bring greater reciprocity to this clearly one-sided trade relationship. In addition to high dairy tariffs, a few examples of the nontariff barriers are included below:

Animal Welfare Labeling Requirements

Switzerland issued an amendment to its ordinance on foodstuffs and everyday objects in May 2025, for enforcement starting July 1, 2025, with a two-year transitional period that includes new animal welfare labeling requirements for certain animal-origin products based on certain sector-specific requirements. The regulation also notes that the Swiss government will establish a list of countries whose legislation prohibits the methods referred to in Annex 2 of the regulation. Foodstuffs from countries in Annex 1 do not need to be labelled with the corresponding statement.

The regulation itself does not include any list of countries that Switzerland has recognized as exempt from animal welfare labeling, so it is assumed that an assessment of third country requirements will be forthcoming. There is also no indication in the text on whether industry programs that address the Swiss animal welfare concerns will be considered acceptable in this third country review. NMPF and USDEC have encouraged recognition of the Farmers Assuring Responsible Management (FARM) Program, which directly speaks to the Swiss concerns related to dairy cattle. Although technically voluntary, U.S. processors expect their producers to participate in this program because of a shared interest in supporting animal welfare. As a result, the participation rate in the U.S. dairy industry exceeds 99%.

Although the initial scope of products included in the Swiss regulation is quite limited, and for dairy appears to only apply to milk for immediate consumption, often regulations are expanded after their initial application. The impact could be quite significant if this happens and the Swiss government takes a narrow approach to third country exemptions.

Recognition of industry practice is crucial to avoid barriers to trade when the end goal of Swiss legislation is achieved, even if it is done outside of the regulatory framework.

Geographical Indications and Common Food Names

As a member of the European Free Trade Association, Switzerland has sought to restrict the use of “gruyere” and “emmental” through misuse of its geographical indications system in third country markets. The blatant attempts to monopolize use of the term effectively closes out current and future global market opportunities for U.S. gruyere exporters. NMPF and USDEC urge USTR to address the GI abuse with their Swiss counterparts and seek assurances to stop further attempts to restrict use of the term, through either direct trademark applications or EFTA negotiations.

NMPF and USDEC encourage USTR to maintain a bilateral dialogue with Switzerland to resolve these outstanding concerns that drive the deeply unbalanced trade relationship.

Taiwan

Taiwan is a growing U.S. dairy export destination, with \$108 million exported in 2024. Extended shelf-life fluid milk products account for over 35% of exports by value, despite a 15% import tariff. New Zealand receives duty-free in-TRQ access for most dairy products through the New Zealand – Taiwan Economic Cooperation Agreement, putting the United States at a sizable tariff disadvantage.

As the Administration pursues reciprocal trade negotiations with Taiwan, NMPF and USDEC urge USTR to seek to eliminate tariff barriers to U.S. dairy exports.

While nontariff trade irritants are limited, there is an opportunity to address the following concerns in the ongoing reciprocal negotiations:

Product Registration Protocols

Taiwan maintains a trade-cumbersome system of specific product approvals which expire if trade from the U.S. ceases in a given year for commercial reasons. As an example of this issue, Taiwan currently does not permit the import of certain whipped creams nor buttermilk due to a lapse in export history in 2024, both products of interest to U.S. dairy exporters. Relisting a product requires a redundant product approval process prior to any exports being permitted, despite prior import history. NMPF and USDEC urge the U.S. government to secure commitments from Taiwan that all U.S. dairy products are approved given the proven safety of the U.S. dairy safety oversight process.

In addition, the reciprocal trade negotiations also offer a valuable opportunity to obtain specific commitments to forestall introduction of new, foreseeable trade barriers, including:

- **Common Name Protections:**
A trade framework can be used to negotiate lasting access in Taiwan for U.S. products using common food and beverage terms like “parmesan” and “feta” to help blunt the European Union’s efforts to abuse the GI system through its trade negotiations.
- **Prevention of Unwarranted SPS and TBT Barriers:**
The risk of regulatory barriers such as onerous facility listing requirements and certification requirements that U.S. dairy exporters have struggled with in other Asian markets arising in Taiwan could be proactively avoided if the Initiative includes commitments to recognize the safety of the U.S. dairy system or otherwise prevent such impediments to trade

An additional proactive measure that could be addressed in negotiations with Taiwan could be to secure a commitment allowing for the use of the standard USDA AMS sanitary export certificate for dairy. This certificate includes animal and public health attestations on the U.S. herd and regulatory oversight, and AMS issues this standard dairy certificate to many countries around the world. While many markets allow use of this certificate (which NMPF and USDEC support as reasonable), certificate requirements can change at any time. Disciplines on this would guard against future problematic changes by memorializing use of the certificate for future trade.

As part of an effort to seek likeminded partners to ward against trade barriers and support domestic dairy consumption in Taiwan, including through supporting a school milk initiative, USDEC and NMPF signed an MOU with the Dairy Association of Taiwan in 2025.

Thailand

The United States exported \$87 million worth of dairy products to Thailand last year, despite sizable dairy tariffs in certain areas. Thailand’s tariffs in the dairy sector are generally on the high end for Southeast Asia, ranging up to 200+percent on some products. NMPF and USDEC are encouraged by the announcement of a reciprocal trade framework between the United States and Thailand that includes the promise of substantial preferential market access provisions and a commitment for future negotiations on geographical indications and common names. As negotiations unfold, we urge the Administration to secure elimination of tariffs and commitments to guard against future barriers to trade, including by replicating commitments secured in the agreements with the Malaysia and Cambodia pertaining to dairy regulatory matters and protection of common food terms.

Geographical Indications and Common Food Names

In March 2023, Thailand and the European Union announced the relaunch of negotiations for a bilateral Free Trade Agreement. NMPF and USDEC expect that the European Union will follow the same pattern for GI recognitions in its negotiations with other countries in Asia and abroad. The Thai government should not agree to GI provisions that will limit current or future market opportunities for U.S. products. NMPF and USDEC request that USTR monitor the negotiations and engage with Thai authorities going forward to protect the interests of U.S. producers, exporters, and concerned importers and retailers in Thailand.

Türkiye

U.S. dairy exports to Türkiye last year were limited to just \$5 million, driven in large part by prohibitively high tariffs, with nontariff barriers adding an additional complicating factor:

Packaging Requirements

Türkiye notified a draft packaging regulation to the WTO in August 2025 that establishes different requirements for the use of recycled plastics in domestic and foreign products in contradiction to TBT commitments. The regulation includes a domestic review process for recyclers within Türkiye to be approved as meeting Türkiye's requirements, but states that import of recycled plastics must be produced from recycling companies in the Union Registration list. The Union Register provides information on those facilities that are approved as complying with the EU's food plastic recycling requirements in Commission Regulation (EU) 2022/1616.

Aside from the obvious national treatment concerns of two separate sets of requirements, one for domestic and one for imported products, the regulation has other challenges. The text does not allow third country governments on behalf of their domestic recyclers nor domestic recyclers themselves to request systems recognition with the requirements that Türkiye has laid out for its domestic recyclers. This lack of an approval process restricts foreigners to meeting EU requirements, which as noted above, has led to a scarcity of available plastics available for food contact use.

Should Türkiye's government move ahead to finalize this regulation, it is critical that the national treatment and lack of systems recognition be addressed to ensure compliance with TBT principles.

United Kingdom

NMPF and USDEC support efforts to establish a solid foundation for U.S. dairy exports to the United Kingdom. In 2024, the United States exported \$20 million in dairy products to the United Kingdom, trade that was greatly constrained due to existing tariff and nontariff restrictions.

The U.S. dairy industry strongly supported the first Trump Administration's launch of trade negotiations with the UK. Our industry was encouraged by the first steps initiated in the reciprocal trade framework announced between the United States and the UK but urge substantial further negotiations to expand market access opportunities for U.S. dairy producers and manufacturers. U.S. dairy exports presently suffer from unfair tariff and nontariff barriers in seeking to access the UK market. This results in a non-reciprocal trade relationship between the U.S. and UK on dairy.

The overall value of the UK dairy import market is estimated to be \$5.7 billion, indicating the large additional opportunities that exist in this market were trade constraints to be addressed.

Border Trade Operating Model Risk Ranking

In 2023 the United Kingdom created a new system for handling imports: the Border Trade Operating Model (BTOM). Under this system, new risk categories were introduced for trading partners' products that determine whether a certificate is needed and the frequency of border inspections. Regrettably, the UK has chosen to bestow "low risk" status on the vast majority of dairy imports from the EU, Canada and New Zealand while imposing a "medium risk" status on the vast majority of dairy imports from the U.S. The benefit of a low-risk designation is that products no longer require a certificate to be imported. This discrepancy is clearly unfair as U.S. dairy products certainly achieve the same high levels of food safety as dairy products produced in those other countries.

While the UK has to date refused to publicly release details regarding its evaluation of U.S. dairy risk factors, it is our understanding that the higher risk ranking appears driven primarily by simple paperwork errors and not by any genuine food safety risks posed by the U.S. dairy products themselves. As such, this is an unfair trade practice that penalizes U.S. dairy exporters for minor certification paperwork errors while allowing Canadian, EU and New Zealand dairy exporters to bypass the risk of this entirely by alleviating them from the obligation to submit certificates.

Non-Reciprocal Dairy TRQ Treatment

UK dairy producers benefit from UK-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 UK

market. This non-reciprocal treatment should be addressed and improved market access created for U.S. dairy exporters to the UK.

Vietnam

In 2024, the United States exported \$126 million in dairy products to Vietnam. NMPF and USDEC commend the Administration for securing a commitment from the Vietnamese government to eliminate tariffs as part of the reciprocal trade negotiations. This important development builds upon Vietnam's 2020 decision to grant MFN tariff reductions on a number of dairy HTS lines, a step that helped temporarily narrow the competitiveness gap between the United States and other suppliers to this key market. Given the preferential tariff advantage that European and Oceania suppliers have in Vietnam, the further reduction of tariffs that the Administration secured as part of a reciprocal trade framework is a timely development to maintain U.S. competitiveness in the region. Beyond tariffs, some nontariff issues remain:

Geographical Indications and Common Food Names

One nontariff area of concern with this market relates to the impacts of the EU-Vietnam FTA on U.S. exporters' abilities to sell common name foods in Vietnam. The EU-Vietnam FTA imposes forward-looking restrictions on the use of several commonly produced products, while also containing useful clarifications relating to several compound terms of commercial importance to the United States. Another notable element of this FTA was a grandfathering clause that clearly allows exporters who established use of "asiago," "fontina," and "gorgonzola" in the Vietnam market prior to Jan. 1, 2017, to preserve future access rights to that market. In order to preserve the value of this international commitment, it is critical that Vietnam confirms that it takes precedence over any actions in the trademark system – namely trademark registrations or applications for "asiago," "fontina," and "gorgonzola." In 2025 a trademark response to the fontina and gorgonzola applicants indicated alignment with this grandfathering provisions but as of now finalizing of the provision remained pending; no steps to ensure clarity of alignment have been taken regarding the asiago trademark. NMPF and USDEC urge continued engagement with Vietnam to ensure that U.S. companies can access the maximum possible range of export opportunities in this market. It is vital to ensure that the grandfathering commitments that were provided for are upheld and that EU interests are not permitted to use Vietnam's trademark system to undermine these results.

We strongly encourage additional negotiations to include commitments on nontariff barriers, including related to the protection of common food names, to forestall the implementation of future impediments to dairy trade in Vietnam.

Regional Issues

Central America – Dominican Republic Free Trade Agreement (CAFTA-DR)

Last year the United States exported \$331 million worth of dairy products to parties of the CAFTA-DR: Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua. The trade agreement is an important tool in making the sales possible.

Moreover, CAFTA-DR has been critical to ensuring that U.S. suppliers do not slip behind major global competitors. Just a few years after the agreement was implemented, the European Union put in place its own FTAs with the region. Were the United States to lack preferential access to this market, European dairy suppliers would be very well positioned to seize market share from U.S. companies that would be then forced to pay much higher, and in some cases quite variable, tariff levels.

Product Registration

The CAFTA-DR countries all require product registration of foods before they can be sold in the country of registration. In some countries, product registration can take up to six months to complete. For products produced outside the region, registrations must be completed individually in each country. There is a system in place now for the registration of domestically produced products in each of these countries to be recognized in the other countries in the region, but the mutual recognition has not extended to foreign products. As part of its ongoing regional cooperation efforts, NMPF and USDEC urge the U.S. government to work with CAFTA-DR countries to establish a system by which the mutual recognition of product registration can be extended to products produced outside the region so that a product only needs to be registered in one of the five member states of the Central American Customs Union. Such an effort would improve the efficiency of the registration process and lead to the elimination of redundancies.

Geographical Indications and Common Food Names

The consequences in this region of the implementation of new FTAs with the European Union have been variable. In some countries, such as El Salvador, Guatemala and Honduras, government officials have restricted the use of various single-term names of concern to the United States but have been willing to provide important clarifications regarding the treatment of common names that are components of certain multi-term GIs of interest to U.S. companies. In other countries such as Costa Rica and elsewhere in the region, a lack of clarity and politically driven decisions have yielded potentially harmful uncertainty and NMPF and USDEC urge continued actions to bring these matters to resolution in order to preserve market access for U.S. exports.

NMPF and USDEC commend the U.S. government and its trading partners for their extensive work aimed at securing clarifications regarding the right to use several generic names in exports to countries in this region. Those efforts have helped preserve a significant portion of the value of market access commitments contained in our trade treaties with the region, which is very important to the industry given the United States' geographical advantage to these markets. NMPF and USDEC note the strong results secured with Honduras and urge continued pursuit of these types of clear market access preservation assurances with other countries in the region and in other markets.

Global Issues

Codex

Texts published by the Codex Alimentarius Commission (Codex) are frequently referenced and utilized during negotiations of FTAs and relied upon in adjudicating dispute settlements by the World Trade Organization. This makes Codex a critical forum for both development of food safety guidance and for establishing a level, science-based playing field that facilitates international trade.

The U.S. Codex office plays a critical role in formulating international, science-based food safety standards by coordinating and managing input on U.S. positions for all Codex meetings. Robust Codex standards ensure greater transparency and safer food worldwide in the interest of consumers, producers, and manufacturers. As the U.S. dairy industry's reliance on exports continues to increase, the need for a proactive, engaged, and fully resourced Codex office to advocate on the dairy industry's behalf is increasingly critical. Sufficient training for U.S. Codex delegates, including technical support staff from non-trade agencies, is also important for delivering key Codex outcomes for U.S. dairy exports. Ensuring robust support for the programming that the Codex Office leads in training new and existing U.S. delegates and others involved in the U.S. Codex program on Codex procedure and trade considerations is critical.

The agriculture industry has repeatedly maintained that robust scientific evidence and a risk-based approach must remain the foundations of all Codex standards. In order to see Codex abide by these principles, however, it is critical that the U.S. scientific and technical staff who work on the development of international food safety standards are provided with sufficient resources and support from interagency partners. This work includes amplification of priority U.S. Codex positions via outreach by interagency partners to additional foreign Ministries (e.g., trade, foreign affairs, etc.). Robust communication and collaboration on Codex issues amongst all the U.S. agencies that work to create and promote increased trade of U.S. agriculture products is essential. The U.S. Codex office must be fully equipped to defend the principles of science-based standard setting, risk assessment, and protect U.S.

interests abroad, working in concert and on a regular basis with like-minded countries, while retaining the food safety and scientific principles that have consistently underpinned U.S. positions in Codex.

In addition to the above over-arching priority areas, there are a number of ongoing or proposed work streams within Codex of high relevance to the U.S. dairy industry currently. Those include:

Codex Executive Committee (CCEXEC) / Codex Alimentarius Commission (CAC)

NMPF and USDEC are increasingly concerned by the efforts of some members to push the limits of the Codex scope, purpose, mandate, and expertise. The Codex mandate, summarized as “protecting the health of consumers and ensuring fair practices in food trade,” is a major reason that Codex has been successful over the last six decades. Codex has also benefited from tremendous expertise in the area of food safety. Efforts to push Codex into standard-setting on topics outside its expertise, including sustainability, or to consider non-scientific factors outside its public health mandate are a serious threat to Codex’s viability. Overall and of foremost importance, we ask the United States to remain vigilant and work with like-minded member states to oppose efforts to expand the scope, purpose or mandate of Codex beyond its core expertise.

As Codex continues to consider how to manage the food safety aspects of “new food sources and production systems,” we similarly encourage vigilance. This nomenclature is code for emerging cellular agricultural products like precision fermentation, cell-based animal protein alternatives, as well as new plant-based foods. If Codex is going to allocate limited resources to these new products, which generally are not traded internationally or at very low volumes, it is critical that the United States oppose any promotion of these products over the conventional foods they seek to imitate. Value-based language seeking to promote these products has no place in science-based Codex standards, guidelines or codes of practice. While we generally believe that existing Codex standards already apply and existing Codex processes are well equipped to assess and manage the risks associated with these products, any new work associated with these products must be limited to only what is necessary to address the unique food safety issues associated with these products. When new work is advanced on these products, we encourage U.S. engagement to guard against subjectivity or inappropriate promotion of these products. The United States must also strongly oppose any efforts to undermine existing Codex texts, including the General Standard for the Use of Dairy Terms (CXS 206-1999).

Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU)

NMPF and USDEC urge close monitoring of efforts to develop general guidelines and principles for the nutritional composition of foods formulated with protein from non-animal sources. If new work in this area is undertaken by the Committee, special care must be taken to ensure protect and not undermine Codex protections for dairy terms found in the General

Standard for the Use of Dairy Terms (CXS 206-1999). With Codex already providing clear guidance on the foods that can and cannot use dairy terminology, such new guidance at the Codex level is likely unnecessary. Should the United States continue to support such new work, we request clear language be included in the new work proposal and discussion document stating that the new work does not undermine, otherwise conflict with or seek to replace the General Standard for the Use of Dairy Terms (CXS 206-1999).

Similarly, if new work on guidelines for nutrient profiling is considered or adopted, we ask that the United States ensure the approach taken aligns with the Dietary Guidelines for Americans. Food-based dietary guidance encourages healthy dietary patterns. This is in contrast to nutrient profiling systems that evaluate foods exclusively based on their nutrient content. Since humans do not consume nutrients in isolation, they consume foods, we have concerns with the scientific validity of such approaches. However, should CCNFSDU choose to pursue this approach, we ask that the United States ensure any guidance issued does not discourage the consumption of nutrient rich foods (e.g., whole, 2% and 1% milk; yogurt; and cheese), thereby unintentionally harming overall health outcomes rather than improving them.

Codex Committee on Food Labeling (CCFL)

We appreciate the efforts of the United States at CCFL48 to ensure that a proposed new work item to revise the General Guideline on Claims (CAC/GL 1-1979) related to sustainability claims did not spiral far beyond the scope and mandate of Codex. However, continued vigilance is needed on this and other new work proposals that have been retained in the inventory table of previous work identified by the Committee, but did not receive sufficient support to move forward as new work. Despite the Committee failing to reach consensus to start new work on these topics, they will be retained for future consideration. Other topics included on the inventory which raise concerns for dairy stakeholders include labeling of trans fatty acids, declarations for added sugars and revision to the Guidelines for the use of nutrition and health claims (CXG 23-1997) to include “high-in” claims. Each of these topics include dairy-specific considerations that NMPF and USDEC stand ready to share with the United States should CCFL revisit them in the future.

Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS)

NMPF and USDEC have long worked with the United States to support efforts by CCFICS to complete work on draft guidelines on the prevention and control of food fraud. We appreciate the efforts that resulted in a determination by the Committee that issues of intellectual property, including GIs which the Committee concluded were a type of IP, are beyond the scope of the guideline, and consensus to exclude IP issue from the guideline. With the Guidelines still under consideration, we ask the United States to build on this positive outcome and work with like-minded allies to continue to ensure GIs and IP issues remain out of scope, including pushing back on efforts to include definitions of certain terms that muddy the waters on scope. World Health Organization (WHO)

To the extent that the United States opts to offer reform proposals that would address challenges identified with the World Health Organization, we offer the following points for consideration as reform priorities:

- **Reform Priority: Prioritization of Health Threats Posing Highest Cross-Border Risks.**

In order to make the best possible use of WHO member states' funds, it is critical that the WHO place the highest focus and direct the most resources (staff and outlays) toward those areas that require a coordinated global response and pose the greatest cross-border risks for the world. This relates primarily to WHO's communicable disease prevention and emergency health functions that include responses to pandemics, disease outbreaks, natural disasters and humanitarian crises.

- **Reform Priority: Adherence to WHO's Remit and Mandate.**

The WHO has a unique remit related to coordinating and responding to international health crises. Given the importance of managing/mitigating international health crises, it is important that the United States insist that all WHO actions remain grounded in this remit and do not stray into the mandates of other international organizations or into ideological debates.

- **Reform Priority: Bring a Wholistic "Dietary Approach" to Nutrition Recommendations, Focusing on Links Between Nutrition and Health Outcomes, Rather than on Isolated Nutrients or Environmental Outcomes.**

There is a pervasive current of anti-animal agriculture bias within the WHO and a reductionist approach to nutrition. This bias results in recommendations to eliminate or significantly reduce the consumption of animal source foods based on environmental concerns (not nutrition) and/or the presence of isolated nutrients (e.g. fat) in those foods despite their ample nutritional benefits to a healthy diet. WHO should instead focus on using a dietary approach in its nutrition recommendations (similar to how the Dietary Guidelines for Americans are structured) in order to prioritize the connection between nutritional foods and health outcomes.

- **Reform Priority: Policy Recommendations/Technical Guidance Must be High-Quality & Evidence-Based.**

A variety of WHO policy recommendations and guidance appear agenda-driven rather than evidence-based. These policy recommendations are too often based upon "expert" assessments that conclude the weight of evidence is "very low" for the proposed policy intervention to deliver a desired behavior change, yet WHO has endorsed the intervention anyway. An organization dedicated to global health cannot be an advocacy organization; its recommendations must be driven by sound science and strong evidence.

- **Reform priority: Recognition and Inclusion of Private Sector in WHO Meetings & Multistakeholder Forums.**

There is a consistent anti-industry and anti-private-sector bias at the WHO which limits the participation of industry affiliated experts and stakeholders in the WHO process in ways that far exceed other UN bodies. Moreover, these limitations to participation are not imposed on non-governmental organizations (NGOs), which results in an imbalanced consideration of evidence and perspectives as the WHO develops policies. To address this long-standing problem, the private sector should be afforded a seat at the table in any WHO meeting or process that is open to participation from “civil society” NGOs, including WHO governing body meetings, multistakeholder forums and other venues.

To put the above recommendations in context, we offer the following observations:

Despite being recognized as a nutrient-dense food important in a healthy, balanced diet by the U.S. Dietary Guidelines, dairy has been a frequent target of harmful WHO policies and recommendations that are not based on sound science and fail to recognize the significant nutritional benefits from consuming dairy products, particularly for young children and the elderly. It is not appropriate for the WHO to be promoting international policies affecting dairy products that would constitute *de facto* barriers to trade and inappropriately discourage the consumption of nutritious dairy products by young children. This is beyond the WHO mandate and a direct affront on other international organizations (e.g., WTO).

It is also essential to preserve Codex’s unique mandate over those issues within its competency areas. WHO and Codex each have unique roles to play. It is no more appropriate for Codex to dictate policy to the WHO on global health issues than it would be for the WHO to mandate Codex incorporation of all WHO decisions and documents within Codex’s mandate areas. Codex is the standard-setting body for food products that has established a strong track record of weighing the scientific evidence on various topics before arriving at consensus-driven standards based on that evidence. The WHO process, which is not transparent and tends to be more staff-led than member-driven, is different from that followed under Codex. It is critical that each body retains its unique mandate and independence moving forward.

Similarly, NMPF and USDEC note WHO’s expanded interest in United Nation’s (UN) sustainability work and animal care/health standards, which warrant careful monitoring. WHO’s core mandate relates to protecting health, yet staff within the organization seem increasingly energized to push that mandate to include environmental sustainability considerations, such as encouraging health authorities to adopt dietary guidelines that consider climate change or discourage consumption of nutritious animal products because of concerns with greenhouse gas emissions that have nothing to do with nutrition. WHO has

also shown expanded interest in dictating how animals should be raised and cared for, in a manner that prescribes production methods and practices versus risk-based, food safety-related outcomes. The result of these efforts are recommendations to reduce consumption of animal-sourced foods in conflict with abovementioned U.S. Dietary Guidelines and to the detriment of consumers who need greater access to healthy, nutrient-dense foods. Regardless of U.S. membership in the WHO, we believe it is important that the United States monitors any increasing engagement by WHO in these environmental sustainability discussions, including recommendations related to optimal consumption of animal sourced foods currently under development, or expanded efforts to prescribe animal care standards.

NMPF and USDEC are also watching closely WHO's intention to develop guidelines on the consumption of ultra processed foods and the potential review by International Agency for Research on Cancer (IARC) of processed foods as possibly carcinogenic. With indications from WHO that work will begin on the guidelines in 2026, it is critical that processing not be used to discourage the consumption of dairy products, including dairy ingredients, which require processing for safety, stability and transportability but retain their inherent nutritional value. Furthermore, in March 2024, IARC's Advisory Group met and IARC subsequently published its "Advisory Group recommendations on priorities for the IARC" covering the period 2025 – 2029. The Advisory Group listed ultra-processed foods (UPFs) as "high priority" for its research agenda in that publication.

USDEC and NMPF believe it is necessary for the United States to monitor this work carefully as it is suspected that UPFs will be examined by the committee. In the context of the WHO guidelines and the potential IARC review, USDEC and NMPF note that there is no universally agreed upon definition for UPFs, and the system most commonly used, the NOVA system, is subjective, and highly debated. Systems that assign foods to categories based upon level of processing, such as NOVA, do not consider the nutritional value of foods or associated health outcomes when arbitrarily categorizing foods. Increasingly, national governments are making national dietary recommendations that incorporate level of processing into considerations. A WHO recommendation discouraging consumption of dairy products or IARC determination that an ill-defined class of foods are possibly carcinogenic would stoke unnecessary consumer confusion. There is a risk that the WHO may utilize discriminatory definitions of ultra processed foods to further their efforts to discourage consumption of internationally traded products, which could lead to increases in food loss and waste, consumer confusion, and create barriers to trade of nutritious dairy products. Food processing is a technology that helps us produce safer, shelf stable, nutrient rich foods that should be celebrated not demonized.

World Trade Organization (WTO)

USDEC and NMPF strongly support the United States' continued membership in the WTO's rules-based global trading system that provides provisions to guard against arbitrary use of technical regulations or standards to block imports, such as actions associated with SPS measures that lack a clear basis in science and are protectionist in intent. To strengthen this system, NMPF and USDEC support reforms to ensure a functioning appellate body do not step beyond the original intent of the WTO as agreed upon during the Uruguay Round.

The organizations also support robust U.S. government engagement and commitment to WTO reform on provisions related to food and agriculture, particularly in expanding market access. USDEC and NMPF encourage USTR to reject proposals that would weaken disciplines on public stockholding and safeguards that run counter to the intent of the WTO to facilitate international trade. Further, any proposals on tightening domestic support commitments should not be considered without commensurate market access expansion. USDEC and NMPF look forward to collaboration with USTR and its interagency partners as the Administration develops its strategy for how best to engage with the WTO.

Points of Contact

- Shawna Morris; Executive Vice President of Trade Policy and Global Affairs; smorris@nmpf.org; (703) 294-4342
- Tony Rice; Trade Policy Director; trice@nmpf.org; (703) 469-2375