



U.S. DAIRY
EXPORT COUNCIL



NMPF
NATIONAL MILK
PRODUCERS FEDERATION

**Comments by the
National Milk Producers Federation and the U.S. Dairy Export
Council on the Operation of the Agreement
Between the United States of America,
the United Mexican States, and Canada**

Docket Number USTR-2025-0004

October 31, 2025

Contents

Introduction.....	3
Canada.....	4
USMCA Market Access Evasion.....	4
Lost Dairy Sales.....	6
Canadian Nonfat Milk Solids Trade-Distorting Policies	6
Class 4a Pricing	7
USMCA Export Discipline Circumvention	7
Mexico	10
Conclusion	14
Contact Information	14
Annex.....	15

Introduction

Our organizations submit the following comments in response to the Request for Public Comments on the Operation of the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) (USTR-2025-0004). The National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC) appreciate the opportunity to present their views on this important issue.

USDEC and NMPF request the opportunity to testify at the USTR hearing on Nov. 17. Shawna Morris, Executive Vice President for Trade Policy and Global Affairs, will serve as the witness.

NMPF develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of dairy producers on Capitol Hill and with government agencies. NMPF provides a forum through which dairy farmers and their cooperatives formulate policy on national issues that affect milk production and marketing. NMPF's contribution to this policy is aimed at improving the economic interests of dairy farmers, thus assuring the nation's consumers an adequate supply of pure, wholesome, and nutritious milk and dairy products.

USDEC is a non-profit, independent membership organization representing the global trade interests of U.S. dairy farmers, dairy processors and cooperatives, dairy ingredient suppliers and export trading companies. Its mission is to enhance U.S. global competitiveness and assist the U.S. industry to increase its global dairy ingredient sales and exports of U.S. dairy products. USDEC and its 100-plus member companies are supported by staff in the United States and overseas in Mexico, South America, Asia, Middle East and Europe. Dairy Management Inc. founded USDEC in 1995 and, through the dairy checkoff program, is the organization's primary funder.

The resilience of global supply chains is paramount for the U.S. dairy industry, which last year exported over \$8 billion worth of dairy products, representing 17% of milk solids production in the United States.¹ These exports support thousands of jobs throughout the industry and the export supply chain. Trade agreements play a crucial role, providing a framework for reducing trade barriers and enhancing market access to key partners. These agreements are key to allowing U.S. dairy products to compete on a level playing field in highly competitive international markets.

The U.S. dairy industry strongly supported the modernized USMCA, particularly in light of its preservation of U.S.-Mexico agricultural trade flows and the improvements it was designed to deliver in dairy trade with Canada. The North American Free Trade Agreement (NAFTA) had been essential to the U.S. dairy industry's success in Mexico—it has long been our top export market, valued at \$2.5 billion last year—and USMCA laid the groundwork for continuing that success. Canada has always been a challenging dairy

¹ U.S. Dairy Export Council | Trade Data Monitor

trading partner compared to Mexico. USMCA made important advances in expanding access for U.S. dairy products into the lucrative Canadian market and in seeking to discipline Canada's use of dairy policy tools to distort trade.

NMPF and USDEC strongly support the preservation of the trilateral nature of USMCA. Agricultural supply chains between the United States, Canada and Mexico are deeply integrated and span the continent. Despite challenges with the Canadian market due to its distortionary dairy trade measures, the cohesive regulatory environment and harmonized cross-border rules that USMCA provides are essential for U.S. dairy exporters to maintain a competitive advantage against suppliers outside of North America.

As the United States prepares for the USMCA 2026 Review, we wish to emphasize the critical importance of follow-through to ensure that the goals U.S. negotiators pursued are met, and the anticipated benefits for the U.S. dairy industry achieved. Regrettably, Canada's implementation of USMCA has to date fallen short, resulting in an impairment of the USMCA's intended benefits to American dairy farmers and manufacturers. While USMCA has succeeded in preserving trade flows with Mexico to date, as the EU-Mexico trade agreement now moves toward implementation, it will be essential to ensure the Review takes steps to preserve that free flow of products, in particular with respect to Mexico's implementation of USMCA commitments affecting the use of common food names.

Canada

Throughout the USMCA negotiations with Canada, the United States sought to address two persistent issues: (1) Canada's extremely limited market access to U.S. dairy products and (2) the growing offloading of artificially low-priced Canadian nonfat milk solids onto the global market, undercutting U.S. producers. Despite the Canadian government committing to both principles through expanded market access and new disciplines on nonfat milk solid exports as part of the agreement, it has failed to adhere to the intent of the deal on both fronts. Canada's shortcomings on both these areas of USMCA implementation negatively impact sales opportunities for U.S. dairy farmers and manufacturers.

USMCA Market Access Evasion

Canada has persistently worked to erode the value of the dairy TRQs the U.S. secured in USMCA. Attempting to access the Canadian market through out-of-quota routes is an exercise in futility, with tariffs at prohibitive levels, which makes the USMCA TRQs an essential route for market access.

USMCA secured expanded tariff-rate quota (TRQ) opportunities for U.S. dairy products into Canada across 14 categories: milk, cream, skim milk powder, butter and cream powder, industrial cheeses, cheeses of all types, milk powders, concentrated or

condensed milk, yogurt and buttermilk, powdered buttermilk, whey powder, products consisting of natural milk constituents, ice cream and ice cream mixes, and other dairy. However, Canada has repeatedly failed to deliver on the full market-opening intent of its commitments. Rather than allowing fair and transparent competition, Canada's TRQ administration limits genuine opportunities for U.S. dairy exporters.

These tactics were the focus of the first formal USMCA dairy dispute brought by the United States, which challenged Canada's practice of reserving up to 85% of its TRQ volumes exclusively for domestic processors, in addition to other measures. In January 2022, a dispute settlement panel ruled in favor of the United States, confirming that Canada's allocation practices were inconsistent with its commitment in Article 3.A.2.11(b) not to "limit access to an allocation to processors." Despite this clear ruling, Canada's response was to adjust its policies only superficially, including by only removing explicit delineations between processor and distributor allocations but maintaining a "market share" allocation component. And despite the ruling, Canada continued to prohibit allocations to retailers, restaurants, hotels, and grocers while dramatically limiting access for importers/distributors. Regrettably, a second panel failed to recognize these continued violations.

The result of this protectionism is borne out in the data, with fill rates as low as 3 percent (SMP, TRQ-CA3), 8 percent (MPCs, TRQ-CA12), and 12 percent (yogurt and buttermilk, TRQ-CA7). Other important categories had fill rates of 21 percent (whey powder, TRQ-CA8), 51 percent (cream, TRQ-CA2) and 59 percent (cheese for industrial uses, TRQ-CA5). Even where fill rates are higher in some cases, trade is distorted by virtue of the fact that the vast majority of each TRQ is awarded to Canadian producers of the product in question – i.e., Canadian butter manufacturers receive most of the butter TRQ; Canadian cheese manufacturers receive most of the cheese TRQ. As a result, U.S. exporters of various dairy products must largely sell to their Canadian competitors in those same product categories.

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 current system of granting the bulk of quotas to Canadian dairy processors with insufficient penalties for non-use results in the partially filled quotas at year end that stand in stark contrast to strong Canadian customer demand. The Review must 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. Canada's tendency seems to be to patch minor issues and call it a day when resolving any trade conflict. For instance, the negotiations with New Zealand that resulted in minor changes by Canada would not be acceptable outcomes for U.S. exporters counting on USMCA living up to its full potential.

Lost Dairy Sales

During the first Trump Administration, the U.S. government negotiated extremely hard to obtain important incremental access into the Canadian market, 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 Trump Administration for the intended USMCA access and strongly support the use of the Review process to ensure that Canada can 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.

See Figures 1 and 2 in annex for additional information.

Canadian Nonfat Milk Solids Trade-Distorting Policies

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, we 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—SMP, MPC under HTS code 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 MPIS 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+ 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.

The government outlays to Canadian dairy processors include funding made available through an extensive series of subsidy programs, including the Supply Management Processing Investment Fund, Dairy Innovation and Investment Fund, Dairy Processing Investment Fund and Matching Investment Fund, that collectively provide billions of dollars in direct support for dairy processing infrastructure subsidies. This is in addition to the support from the Dairy Direct Payment Program and Dairy Farm Investment Fund that serve as direct payments to producers. Notably, companies such as Vitalus Nutrition Inc. and Gay Lea Co-operative Ltd. that produce and export nonfat skim solids have secured tens of millions of dollars in recent years through a combination of targeted federal investment programs, provincial economic development grants, and cost-sharing initiatives administered through the Canadian Dairy Commission and provincial milk boards. This public funding aligns with a broader policy framework designed to help Canada manage its structural surplus of skim solids by expanding domestic processing capacity and bolstering export-oriented dairy ingredient production.

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.

NMPF and USDEC appreciate UTSR’s request of the U.S. International Trade Commission (USITC) to initiate a Section 332 investigation into global nonfat milk solids competitiveness, with Canada squarely in focus. Our organizations are confident that the report will be a valuable resource in illuminating Canada’s intentional attempts to obfuscate its attempts to evade the nonfat milk solids disciplines.

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.

See Figures 3 through 6 in annex for additional information.

Mexico

As noted above, Mexico is the U.S. dairy industry’s most important trading partner. It accounted for over a quarter of total U.S. dairy exports to the world last year, making it an invaluable and irreplaceable destination market for American-made dairy. Mexico is a valuable partner and collaborator; the U.S. and Mexican dairy industries have worked very closely together for decades now to grow total dairy consumption in Mexico—to the benefit of both industries. While U.S. dairy exports have soared since the implementation of NAFTA, and seen continued remarkable growth under USMCA, Mexico’s own dairy production has also continued to grow. This symbiotic relationship is a stellar example of trade working well and delivering mutual benefits.

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 relying 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 in this regard:

- Common Name and Geographical Indication elements of USMCA's Chapter 20 on Intellectual Property Rights (IPR),
- USMCA's side letter on Prior Users,
- USMCA's side letter on Cheeses,
- Recent proposed amendments to the domestic legislation contrary to the USMCA provisions,
- Automatic protection in Mexico of foreign GIs through the Lisbon Agreement, and
- Imminent entry into force of the EU-Mexico FTA.

Mexico's Lack of Full Implementation of USMCA IP Chapter GI Provisions in Mexico's Domestic Legal Framework. 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.

- 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.

Recent proposed amendments to the 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 in Mexico 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, the 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. In light of its pivotal role in ensuring market access and legal certainty for U.S. exporters and businesses, it is imperative that the administration continue to uphold and actively advocate for the preservation and full implementation of the USMCA.

Conclusion

NMPF and USDEC urge the administration to address these issues in the 2026 USMCA Review to ensure that Mexico definitively and clearly implements in its domestic laws and regulations its USMCA commitments so that U.S. producers will be able to continue to use common food and beverage names in Mexico.

On behalf of NMPF and USDEC's 100-plus member companies, we appreciate the opportunity to provide comments on these important issues and remain available to provide any further clarification as needed. Should you have any questions, please feel free to contact Shawna Morris, whose contact information is provided below.

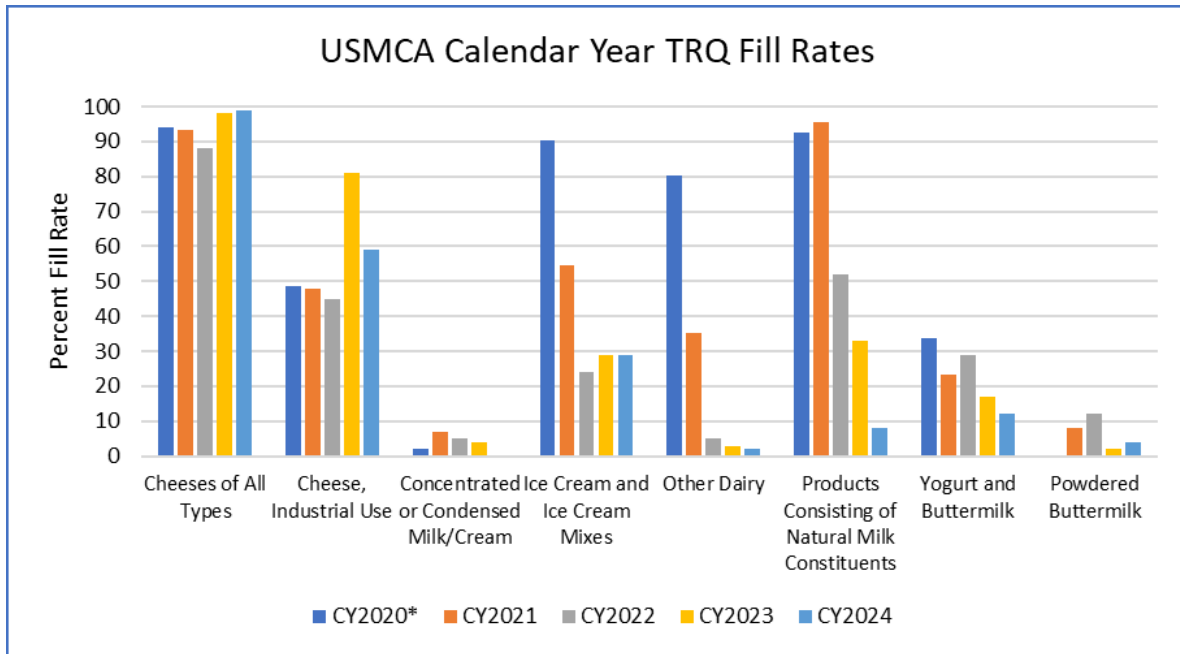
Contact Information

*Shawna Morris
Executive Vice President, Trade Policy & Global Affairs
National Milk Producers Federation & U.S. Dairy Export Council
2107 Wilson Blvd, Suite 600
Arlington, VA 22201
Phone: 703-243-6111*

*Tony Rice
Trade Policy Director
National Milk Producers Federation & U.S. Dairy Export Council
2107 Wilson Blvd, Suite 600
Arlington, VA 22201
Phone : 703-469-2375*

Annex

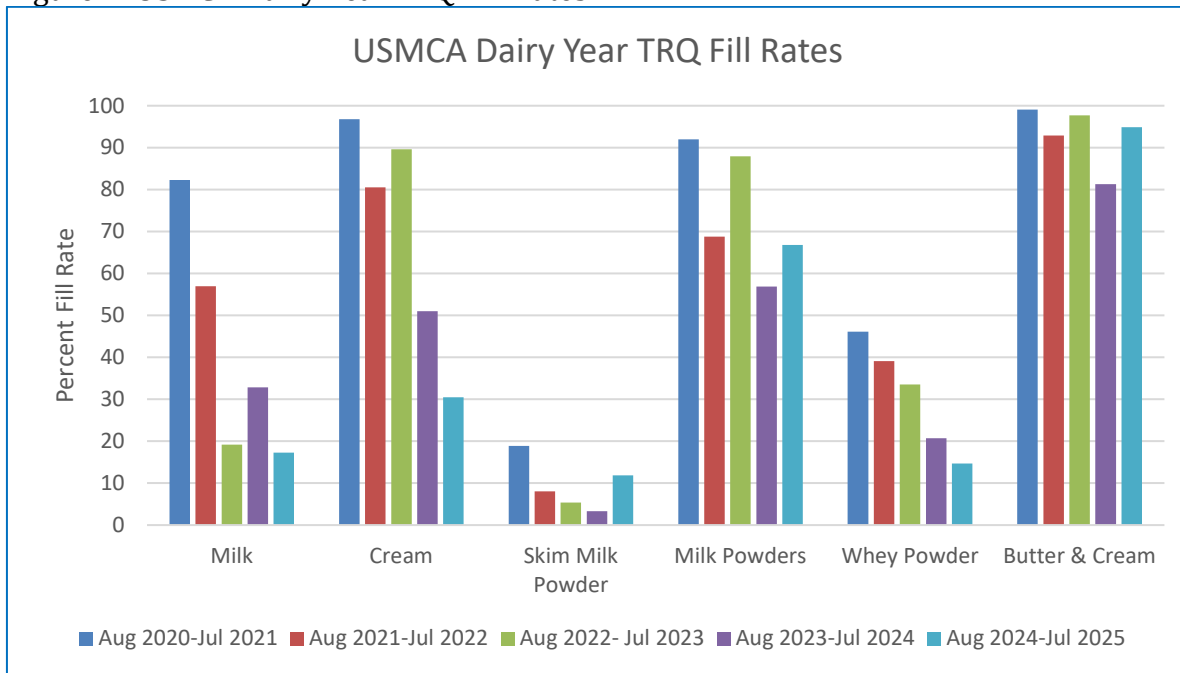
Figure 1: USMCA Calendar Year TRQ Fill Rates



*July – December 2020

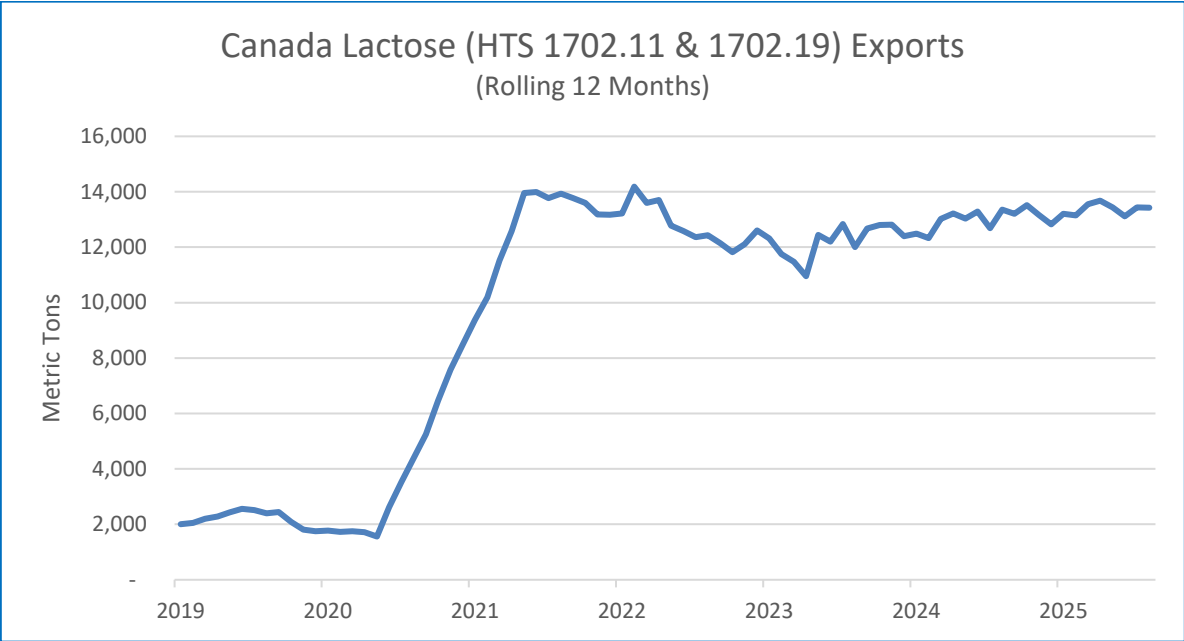
Source: U.S. Dairy Export Council, Global Affairs Canada

Figure 2: USMCA Dairy Year TRQ Fill Rates



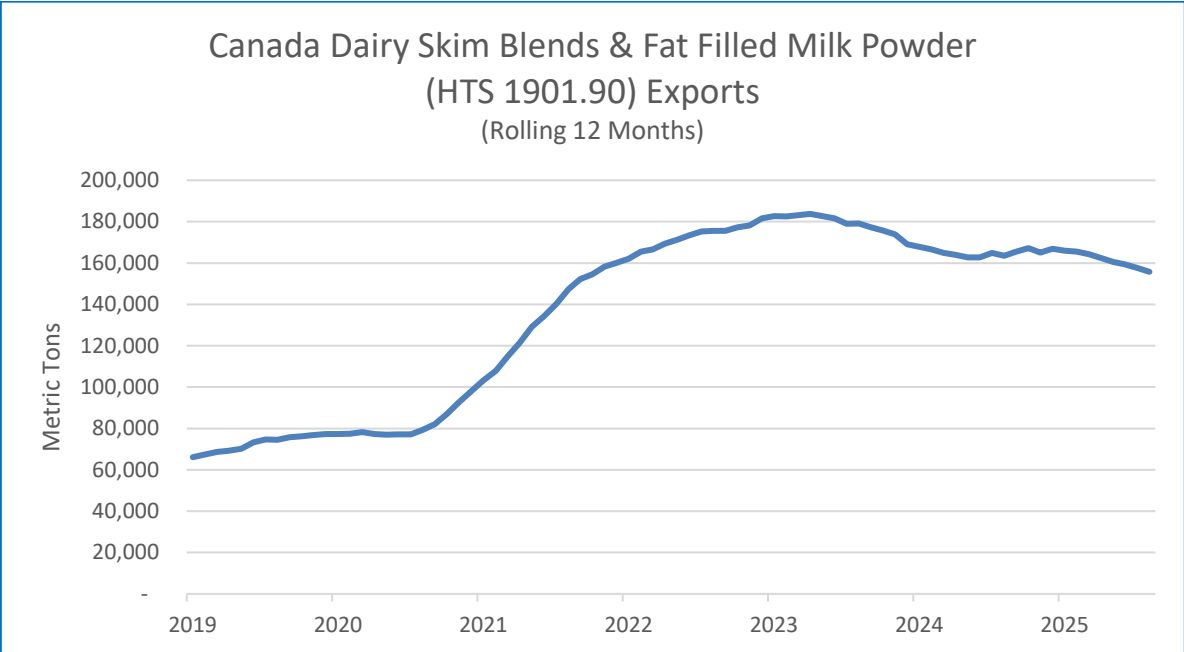
Source: U.S. Dairy Export Council, Global Affairs Canada

Figure 3: Canada Lactose Global Exports



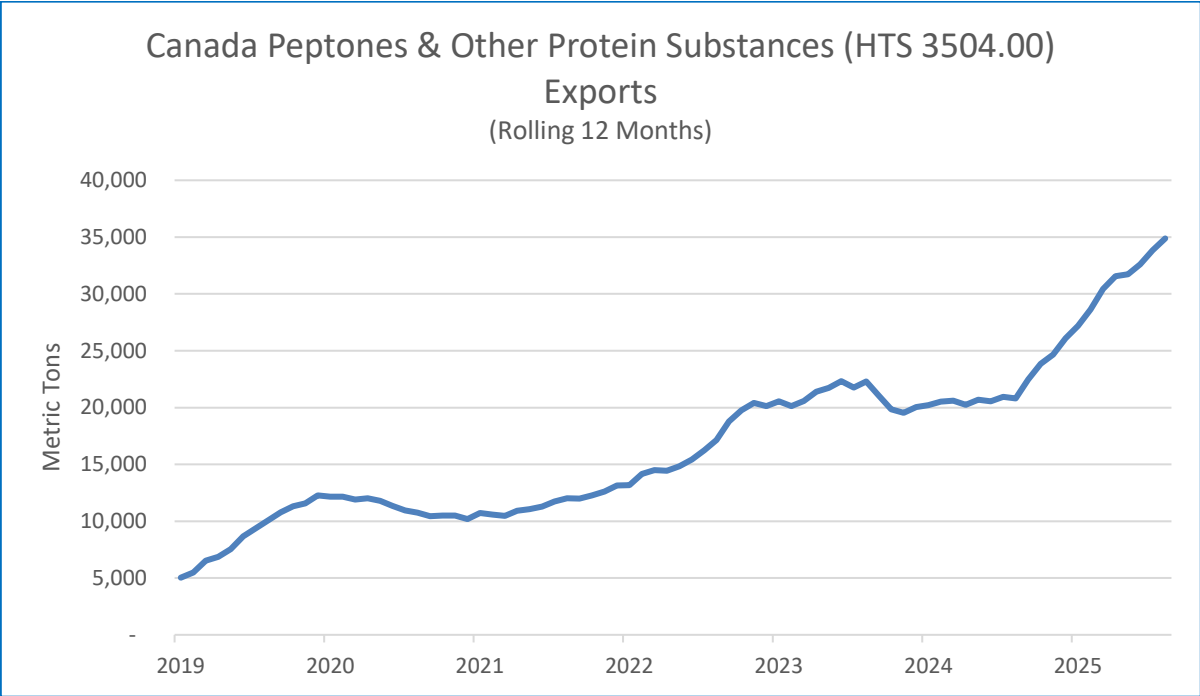
Source: U.S. Dairy Export Council, Global Affairs Canada

Figure 4: Canada Dairy Skim Blends and Fat Filled Milk Powder Global Exports



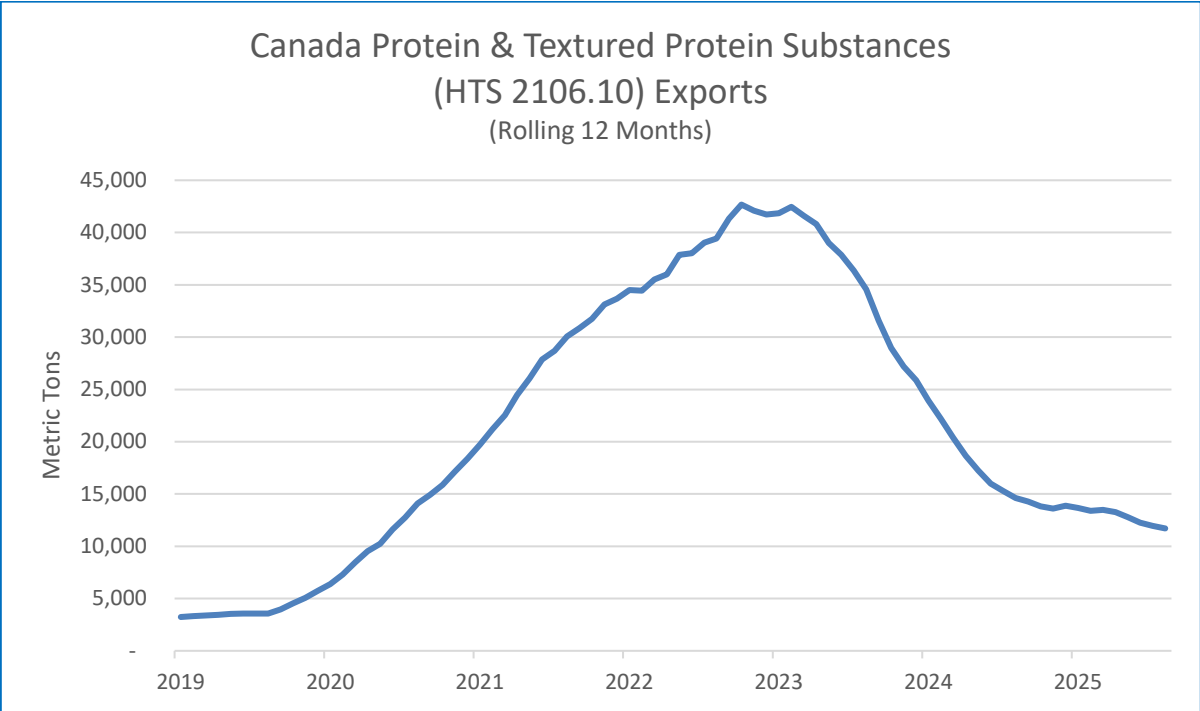
Source: U.S. Dairy Export Council, Global Affairs Canada

Figure 5: Canada Peptones & Other Protein Substances Global Exports



Source: U.S. Dairy Export Council, Global Affairs Canada

Figure 6: Canada Protein & Textured Protein Substances Global Exports



Source: U.S. Dairy Export Council, Global Affairs Canada