



January 19, 2022

The Honorable Katherine Tai
U.S. Trade Representative
600 17th Street, N.W.
Washington, DC 20508

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Ambassador Tai and Secretary Vilsack,

On behalf of the U.S. Dairy Export Council (USDEC), the National Milk Producers Federation (NMPF), and their members, thank you for prioritizing enforcement of Canada's dairy TRQ commitments under the U.S.-Mexico-Canada Agreement (USMCA) and for the successful dispute settlement panel outcome announced last week. We greatly appreciate the extensive work done to help secure this result at both of your agencies, in particular the effective advocacy of Nicholas Paster and Daniel Stirk of USTR's Office of the General Counsel. Ensuring our trading partners are following through on their commitments to allow imports of American-made dairy products is incredibly important to the dairy farmers, dairy manufacturers, and dairy workers across the country who count on exports to help sustain their jobs and businesses.

As you begin discussions with Canada on modifications to its TRQ administration to bring it into compliance with USMCA, we urge you to bear in mind the following key principles to ensure that U.S. dairy producers secure the full benefits provided under USMCA.

- First, and most fundamentally, it is essential that distributors, retailers, and food service companies have the full opportunity to apply for and obtain TRQ allocations, and that the current reservations for processors are eliminated. As was clearly negotiated and agreed to by the parties, any applicant who is active in the Canadian food or agriculture sector must be eligible to apply and be considered for a quota allocation. In particular, it should be borne in mind that retailers for consumer-ready products have the largest incentive to most efficiently maximize use of the TRQs.
- Second, any threshold minimum activity in the market to be considered eligible for TRQ access should not establish criteria that implicitly advantages processors. The objective of the negotiated access was to benefit U.S. interests, not Canadian processors. Excessively high activity threshold requirements inherently favor processors and limits the ability of retailers, distributors, or food service businesses to access TRQs for high value U.S. dairy products.
- Third, allocations should categorically not be based on production or sales of domestic Canadian dairy products. Sales activity – in any location, not just Canada – should be acceptable evidence of activity, and retailers, brokers, importers, distributors, restaurants, and other food service businesses should also be considered active.

- Fourth, while some of the dairy TRQs like milk and butter/cream powder indicate that some portion of the quota may be reserved “for further processing,” the allocation system should reflect that this language refers to what is to be done with the product – not who may import it. Quota allocations of these products may not be reserved for or limited to “processors” or “further processors” and should not introduce unreasonable barriers to import via overly burdensome documentation requirements.
- Fifth, we continue to oppose a market-share allocation system as unduly favoring processors, instead preferring a hybrid approach that relies in part on historical use, at least after the first year the allocation system is in place.
- Finally, we support maintaining strong penalties for chronic returns and under-utilization of allocations, assessed against the following year’s allocation. While we support transfers of quota allocations, we believe there should be penalties for those who repeatedly transfer their allocations, in order to incentivize companies to seek quota levels they expect to reliably use.

Thank you again for efforts to ensure that U.S. dairy producers receive the full benefits of USMCA. We look forward to continuing to work with you toward that end.

Sincerely,



Jim Mulhern
President & CEO
National Milk Producers Federation



Krysta Harden
President & CEO
U.S. Dairy Export Council