

May 21, 2020

Ms. Rebecca Moffat-Vallee
Coordinator
Agriculture, Food and Rural Affairs Appeal Tribunal
1 Stone Road West
Guelph, Ontario
N1G 4Y2

Dear Ms. Moffat-Vallée:

On behalf of the U.S. Dairy Export Council (USDEC) and the National Milk Producers Federation (NMPF), we are writing to object to, and respectfully urge you to reject, a pending request from the Dairy Farmers of Ontario (DFO) that the Tribunal grant restricted access to DFO pricing regulations. Under the terms of the Canada-U.S.-Mexico Agreement (CUSMA), such information is required to be publicly released as of entry into force of the agreement, July 1, 2020. There is no legitimate reason for withholding public disclosure of such information now, less than a month and a half before Canada will have an obligation to do so. To the contrary, doing so would unnecessarily create a cloud over CUSMA as it enters into force, at a time when the North American economy will most be counting on the agreement help stabilize and restore economic conditions in the wake of the Covid-19 crisis.

As part of CUSMA, Canada agreed to eliminate milk class 6 and milk class 7 and to reclassify the products under these classes six months after entry into force. The reclassification will be subject to a price floor established in the agreement.¹ These provisions are core requirements of the agreement and were key elements underpinning its successful conclusion.

Accurate information on the current operation of classes 6 and 7 is central to the ability of Canada's partners to confirm Canada's compliance with these provisions. In this connection, CUSMA imposes the transparency requirement to publish on a government website information:

- (a) laws and regulations at the central or regional level of government of a Party that govern or implement a milk class pricing system for dairy, including any replacement or amendment thereof;

¹ CUSMA, Art. 3.A.3.3 - 3.A.3.5.

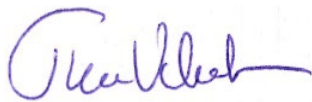
- (b) the assumed processor margin;
- (c) each milk class price, including for each milk component by each milk class; and
- (d) the yield factor.²

The transparency requirement applies to existing measures and, as with other CUSMA provisions, will take effect on July 1.

DFO and others supporting its position suggest that DFO's pricing regulation will be relevant to the upcoming negotiations to replace classes 6 and 7.³ We agree. From the CUSMA perspective, its relevance will be to ensure that the decisions that emerge from those negotiations will be consistent with Canada's obligation to eliminate classes 6 and 7 and refrain from effectively recreating the impacts of those classes via other means. DFO's efforts to suppress this information can only be understood as an attempt to circumvent this requirement, by obscuring the current operation of classes 6 and 7 and along with it the baseline against which the new program is to be evaluated.

We respectfully request that the Tribunal reject this request. Accepting it will needlessly create a cloud of suspicion over the changes Canada will be undertaking and undermine the confidence the CUSMA transparency provisions are intended to provide that Canada has, indeed, fully implemented its class 6 and 7 commitments.

Sincerely,



Thomas J. Vilsack
President and CEO
U.S. Dairy Export Council



James Mulhern
President and CEO
National Milk Producers Federation

cc:

Ambassador Gregg Doud, U.S. Trade Representative's Office
Under Secretary of Trade Ted McKinney, U.S. Department of Agriculture

² CUSMA, Art. 3.A.3.10.

³ See, e.g., Letter from Paul Gaunce, Dairy Farmers of New Brunswick, to Ms. Rebecca Moffat-Vallée (May 11, 2020).