Senate Committee on Agriculture, Nutrition & Forestry
Subcommittee on Commodities, Risk Management, and Trade Hearing on Agricultural Trade: Priorities and Issues Facing America's Farmers
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On behalf of the
National Milk Producers Federation

Good morning, Chairman Warnock, Ranking Member Hoeven, and distinguished members of the Subcommittee. Thank you for inviting me to testify at this hearing on priorities and issues facing America's farmers in connection with agricultural trade.

My name is Sheryl Meshke. I serve as co-president and chief executive officer of Associated Milk Producers Inc. (AMPI), the largest cheese cooperative based in the U.S. AMPI is owned by dairy farm families from Wisconsin, Minnesota, Iowa, Nebraska, South Dakota and North Dakota.

Our members market about 5 billion pounds of milk, with annual sales nearing $2 billion. AMPI owns eight Midwest-based manufacturing plants, producing about 10 percent of the nation's American-type natural cheese and butter. The cooperative's award-winning dairy products are marketed to foodservice, retail, and food ingredient customers.

I am testifying today on behalf of the National Milk Producers Federation (NMPF), on whose board I serve. I also serve on the board of the U.S. Dairy Export Council (USDEC), which partners closely with NMPF on dairy trade policy issues – including all those I plan to address through my testimony.

NMPF develops and carries out policies that advance the well-being of dairy producers and their cooperatives. NMPF's member cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 32,000 dairy producers on national issues. International trade is one of those issues and in recent years it has been one of the most important.

NMPF and USDEC work in tandem on international trade issues. 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. USDEC's 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's efforts have contributed greatly to the success of the industry and the thousands of workers who are supported by dairy exports throughout the supply chain.

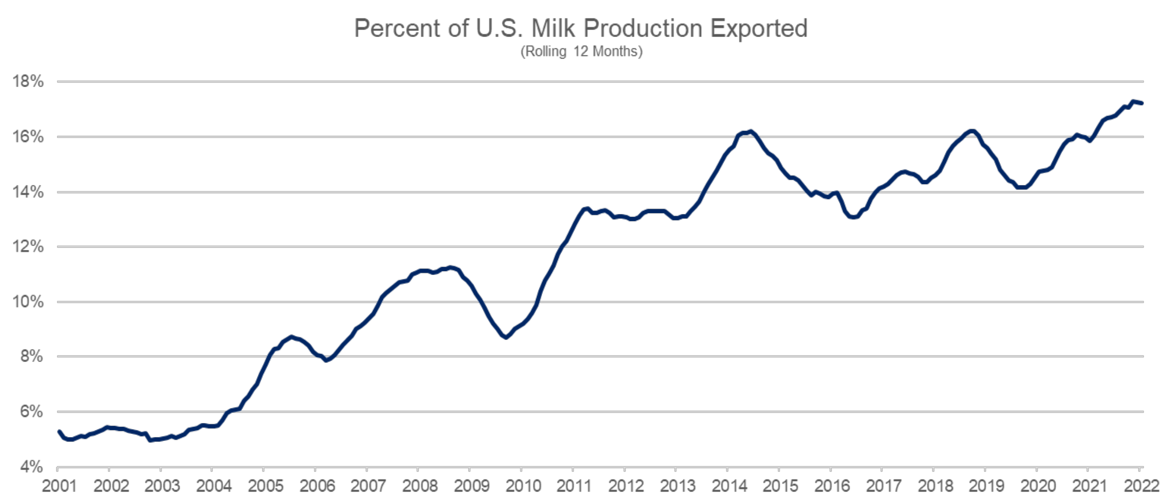
AMPI's Export Footprint and Impact on Dairy Farmer Returns

At our cooperative's Portage, Wisconsin plant, AMPI packages sliced and shredded cheese predominantly for foodservice customers. In 2020, AMPI expanded sales of its premium processed American cheese slices to China; by 2021 we were able to export 500,000 pounds, accounting for virtually all of the processed American cheese exported to China from the U.S. last year. Those efforts expanded to include the Middle East-North Africa region in 2021. Customers in those regions include upscale restaurants and quick-service burger chains. AMPI's cheeses are well-positioned to meet the needs of those overseas customers due to our award-winning, high-quality product that offers a larger, tastier and more attractive slice of cheese. On the policy front, if Chinese retaliatory tariffs were lifted, we would be even better poised to expand sales in that growing market.

Increased exports of processed American cheese benefit the entire U.S. dairy industry by driving demand, boosting cheese market prices and helping ensure the long-term financial health of U.S. dairy farmers. The primary ingredient in pasteurized processed American cheese is cheddar cheese sold in a 500-pound barrel format. Barrel cheese prices represent close to half of the calculation of Class III milk prices. In the cheese-producing Midwest, strong barrel market prices positively impact dairy farmers.

Economics of Dairy Sector and Trade

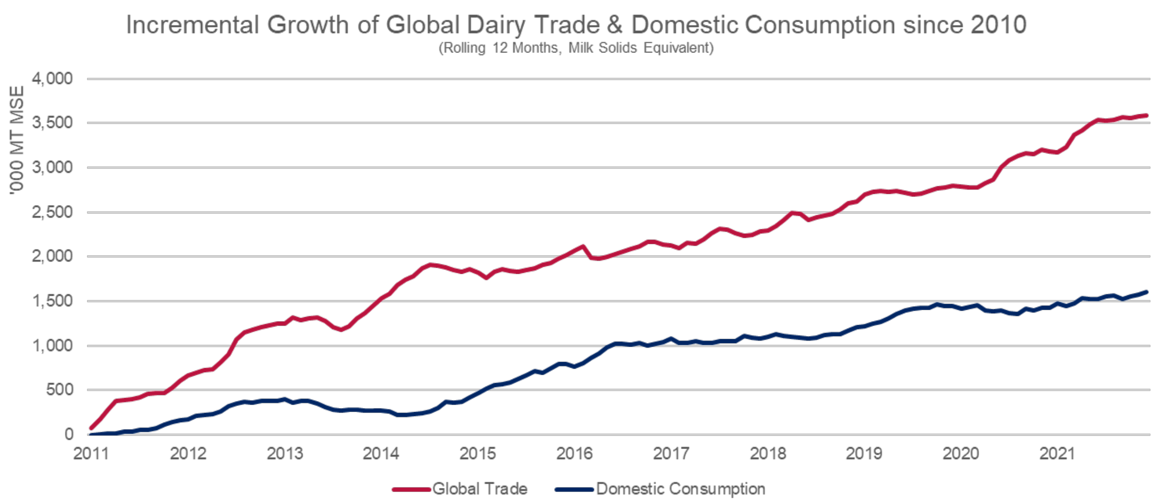
U.S. dairy is an essential component of American communities across the country, employing more than one million workers and adding $750 billion to the U.S. economy.[1] For the U.S. dairy industry to be successful and continue to support farmers, workers, and consumers, international trade and exports are of utmost importance. Exports underpin U.S. dairy's success in the present and will support the industry's growth in the future. Over the past 20 years, satisfying international consumers' growing demand for dairy, particularly dairy protein, has allowed the U.S. dairy industry to grow. Today, exports account for 17% of U.S. milk production. With the right policies to allow U.S. dairy exports to flourish, that figure is expected to continue to climb in the years ahead.



[1] https://www.idfa.org/dairydelivers

Since 2001 U.S. milk production has increased by 37% while exports have more than quintupled. Impressive as that export growth has been, the <u>value</u> of exports has increased even faster than the <u>volume</u> of exports over that time, jumping by 537%. This highlights the fact that international markets can be a high value proposition for U.S. dairy. And those sales are critical to our customers abroad as well – the U.S. is the third largest dairy exporter in the world. The well-being of the U.S. dairy industry is inextricably tied to international trade and global dairy demand is strongly reliant on the U.S. remaining a consistent and reliable supplier.

As important as exports are today to America's dairy industry, they're absolutely essential to our future. As shown in the chart below, since 2010, the amount of dairy traded internationally has grown by more than twice the rate (+4% per year on average) of U.S. domestic dairy consumption (+1.5%).



The U.S. dairy industry's strongest future growth opportunities will come from international trade, with 96% of the world's population living outside of the United States, and rising populations and incomes in dairy importing markets. In some ways that future is already here. Perhaps the most telling statistic of all is that **<u>U.S. dairy exports have grown more than</u>**

domestic sales in four out of the past five years, including 2021, which set records for volume, value and percent of production exported. And this is despite the export supply chain headwinds and competition disadvantages U.S. exporters have been facing in key markets.

Ultimately, if the United States wants to continue to help fulfill the growing demand for high-quality nutrition around the world – and reap the benefits those sales create for U.S. dairy farmers and workers through the production of Made-in-America product – we will need to continue to expand export sales and promote the use of effective trade policy tools.

The growing global market is a highly competitive environment with experienced competitors entrenched in key markets. The European Union and New Zealand, the world's two largest dairy exporters, have been active in international markets far longer than the U.S., which has provided them with powerful historical advantages. They've built upon those advantages through a much more robust trade policy strategy. Between the EU and New Zealand, one or both have free trade agreements (FTA) in 15 out of the 17 largest dairy markets by value.[2] The U.S., by contrast, only has FTAs with five.[3]

With the combined investment of U.S. dairy farmers, processors, policymakers and associations, the U.S. is asserting itself as the primary dairy supplier to the growing global market. In 2021, the United States grew dairy exports by more than any other country in the world. However, sustaining that success is not guaranteed.

Maintaining and expanding trade relationships is vital to the strength of the domestic dairy industry and the economic health of rural America. Congress and the U.S. government must work together to preserve equitable trade relationships with key dairy trading partners and prioritize creating greater market access for the high quality, sustainably produced milk and dairy ingredients manufactured by the U.S. dairy industry.

U.S. Leadership on Global Sustainability Efforts

The robust environmental stewardship of U.S. dairy farmers bolsters our capacity to meet global demand and provides an additional opportunity to be competitive. No other country in the world is as greenhouse gas efficient in milk production as the United States, where our producers reduced the greenhouse gas emissions of producing a gallon of milk by almost 20 percent from 2007 to 2017. We make highly sustainable products and will continue to improve on that through our 2050 goals for the U.S. dairy industry to become greenhouse gas-neutral or better, improve water quality, and optimize water usage. With a commitment to increased productivity and continuous improvement, the U.S. dairy industry has been able to produce milk using 65% less

[2] Excluding the U.S. and European Union, the seventeen largest dairy import markets by value are China, United Kingdom, Russia, Saudi Arabia, Mexico, Japan, Indonesia, South Korea, Malaysia, Philippines, Australia, Singapore, Canada, Thailand, Taiwan, Switzerland, and Egypt. Only Russia and Saudi Arabia don't have FTAs with either the EU or New Zealand.

[3] The U.S. has FTAs with Australia, Canada, Mexico, Singapore, and South Korea. Although the U.S.-Japan Phase One Agreement expanded U.S. access to that market, work to complete it and create a permanent, comprehensive FTA has not been concluded.

water, generating 76% less manure, and 63% less greenhouse gas emissions compared to 70 years ago.[4]

We believe the U.S. is uniquely positioned to promote sustainability on the global stage by leading a science-based, productivity-oriented approach that will be critical to supporting global competitiveness of U.S. agriculture exports, particularly dairy. We expect to see increasing pressure from our export competitors focused on advancing their agriculture, sustainability, and trade objectives through ongoing work in the United Nations and international standard setting bodies. To balance the discussion and ensure global recommendations and standards are science-based, facilitate trade, and deliver more sustainable food systems, it is essential the U.S. government take a leadership role and work with likeminded countries around the world to deliver priority outcomes.

The U.S. dairy industry demonstrated it is a strong partner in this charge at this past year's United Nations Food System Summit. As a proud member of the Coalition of Action for Sustainable Productivity Growth for Food Security and Resource Conservation, we stand ready to do the work needed to advance the pragmatic approaches, and reject extremist positions driven all too often by European activist groups and protectionist interests. We look forward to continuing to work closely with the U.S. government and Congress regarding the opportunities for dairy and the wider agriculture community in the fight against climate change. We applaud the U.S. government's wide-ranging efforts encouraging other countries and sectors to embrace the benefits of a sustainable productivity model, and we encourage increased government support of innovation through initiatives such as our Net Zero Initiative, which is a voluntary on-farm effort to advance the U.S. dairy industry's 2050 goals of achieving GHG neutrality and improving water and land use.

As dialogue around the world and within the UN itself often unfortunately focuses on an anti-trade, anti-dairy, and anti-agriculture narrative, the U.S. dairy industry looks to U.S. policy leaders to help inform the debate about the benefits of innovation and technology while advocating an approach that respects the legitimate role of all agricultural sectors in the future of the global food system. Given current and anticipated challenges combined with the solutions U.S. agriculture has to offer, the United States must remain uniquely focused on charting a more workable, trade-friendly, and science-driven pathway forward on sustainability and climate issues. Agricultural producers across the board are stewards of the land, and the U.S. dairy industry is a prime example.

Export Shipping Supply Chain Challenges Require Urgent Remedies

One of the most pressing concerns for the dairy industry at present is the immense challenge posed in moving our American-made products from U.S. dairy manufacturing facilities to foreign customers. This challenge is plaguing dairy exporters across the country but is particularly acute for in-land facilities like AMPI in the Upper Midwest. Freight rates have soared while availability and predictability of the necessary equipment to move U.S. dairy

[4] Journal of Animal Science, "The environmental impact of dairy production: 1944 compared with 2007" (2009), https://doi.org/10.2527/jas.2009-1781.

products to overseas buyers has plummeted. From a lack of containers to the lack of drivers to persistent issues with rail access and the lack of commitment to two-way trade from the shipping carriers, we are at an impasse this industry has never seen before.

These supply chain challenges have cost U.S. dairy exporters well over $1.5 billion last year alone as a result of higher direct costs, reduced value and lost sales. The congestion also puts at risk long-term trade relationships as international customers seek alternative suppliers, citing the United States as an increasingly unreliable supplier due to the delayed shipments and product deterioration.

These challenges will only exacerbate the ongoing global food security crisis driven by the Russian invasion of Ukraine and other geopolitical instability. Billions around the world rely on U.S. containerized agricultural exports, including dairy, and impediments in the export supply chain create additional scarcity and upward pressure on food prices globally if left unaddressed.

This is a complex problem that requires a suite of solutions:

- On the Congressional front, it is critical Congress swiftly move on final passage of the Ocean Shipping Reform Act and ensure the regulatory framework it envisions delivers timely relief to U.S. exporters that deserve equitable access to foreign markets. Trade dynamics where the equivalent of a four-lane highway for goods surges into the United States while exports are effectively relegated to a single lane to reach international customers are not sustainable and not in the best interests of this country. Restoring a more balanced approach to trade flows has broad bipartisan support and is essential to providing a fair shake for American-made products.

- With respect to the Administration, the dairy industry supports the actions that have already been taken to help provide some support to U.S. agricultural exporters. More are needed however to help match the scale of the challenges in our export shipping supply chain. For instance, NMPF and USDEC have asked the Administration to resume issuing USDA's weekly snapshot into the availability and locations of containers, to provide incentives and "fast lanes" at port terminals for perishable products like dairy, to expand on the positive pop-up sites established to date in Oakland and Seattle by creating inland pop-up terminal yards as well, and to implement pilot projects to enable "dual turns" of containers to avoid returns of empty containers. These are more are vital to helping address trade flow snarls.

- It's also critical negotiations between the port terminals and labor unions are handled in a positive and fruitful manner. Dairy exporters cannot afford additional disruptions that would exacerbate the current all-too-fragile situation. Congress and the Administration should closely monitor these negotiations and promote the importance of maintaining trade flows as talks continue.

- Finally, it is essential Congress deal with immigration reform to help the dairy industry grapple with the current labor crisis facing the nation. On behalf of dairy farmers and cooperatives throughout the country, I urge you to find common ground to address the problems at the border, while encouraging legal immigration for dairy. Unlike some other sectors of agriculture, dairy does not have access to H2A visas which makes the labor challenges all the more pressing for our industry.

U.S. Dairy Needs New Trade Agreements to Expand Market Access Opportunities

As noted earlier, U.S. dairy exporters operate in a highly competitive global marketplace where our largest competitors – the EU and New Zealand – have been much more active than the U.S. over the past decade in negotiating and implementing trade agreements. This is already putting U.S. dairy exporters at a disadvantage in certain markets and the gaps will continue to grow the longer the U.S. delays reengaging in the global trade policy sphere in earnest. For this reason, the U.S. dairy industry strongly urges a resumption of the pursuit of comprehensive trade agreements with key dairy importing markets.

For example, we should begin by restarting the already well-advanced U.S.-United Kingdom (UK) FTA negotiations. In 2021, the U.S. exported only $30 million in dairy products to the UK even though the UK is a major dairy importer. Our exports were significantly constrained due to existing tariff and non-tariff barriers. A resumption of FTA negotiations, and an eventual agreement, would substantially increase trading opportunities for this market.

Moreover, the U.S. should pursue comprehensive trade negotiations with key Asian markets such as Japan, Vietnam, Malaysia, Thailand, Indonesia, and the Philippines. This is particularly important given our major dairy competitors in many of these markets already have FTAs in place or are in the midst of negotiating them, putting U.S. dairy producers at a competitive disadvantage. FTAs are an important tool for shaping other countries' policies – both with respect to leveling the playing field for the sale of American-made goods around the world, and with regard to advancing commitments on areas the U.S. government may seek to drive progress on such as labor, environmental and climate policies. The contents of FTAs can and should evolve over time to best advance U.S. priorities. Other developed markets such as the European Union and Canada have managed to find a way to balance their interests effectively in trade agreements – it's certainly viable for the U.S. to do the same and resume engagement in the global trade environment.

In the meantime, it is key the U.S. maximize use of the tools USTR has announced to date as an interim step. The launch of the Indo-Pacific Economic Framework (IPEF) and the U.S.-Taiwan Initiative on 21st-Century Trade are positive initial steps forward. The IPEF provides an opportunity to address non-tariff trade barriers as well as most-favored nation (MFN) tariff barriers to U.S. dairy exports throughout the region. It is imperative agriculture is a core component of these conversations given our sector's position as a reliable net-exporting producer of products supporting U.S. workers. At a minimum, IPEF and the Taiwan Initiative should address foreign MFN tariffs and secure specific commitments on non-tariff barriers. In IPEF, the U.S. must strive for high-ambition, binding results on exports, and exempt countries from the trade pillar who are not equally ambitious, rather than accept the lowest common denominator.

USTR has also touted the value of Trade and Investment Framework Agreements (TIFAs) to advance U.S. export interests. Dairy farmers and exporters are hopeful TIFAs can indeed be leveraged to make a degree of progress on expanding markets; doing so will require a greater prioritization of U.S. agricultural export interests than has traditionally been the case in TIFA discussions, however. As with the IPEF, TIFAs should be used to seek MFN tariff cuts on dairy products to level the playing field with our competitors in key Indo-Pacific markets. This strategy was successfully used by this Administration and the prior one to secure unilateral tariff reductions recently in Vietnam for U.S. agricultural exports.

An important example of a non-tariff trade barrier that merits focus in IPEF and TIFA forums is Indonesia's plant registration requirements which pose an unwarranted limitation on U.S. dairy exports. In order to export to Indonesia, dairy plants are required to register with the government on an approved list. Indonesia's process is exceedingly slow and unpredictable and represents a severe bottleneck to expansion of U.S. exports to Indonesia, our sixth largest export destination. For instance, multiple U.S. dairy facilities who applied to ship to Indonesia at the beginning of 2020 have still not seen final action on their applications and have been asked to provide extensive business confidential information to Indonesia. The U.S. government should work with its Indonesian counterparts and interagency partners to secure prompt approval of the pending applications. In addition, the U.S. should secure with Indonesia a systems recognition of the safety of the U.S. dairy regulatory system in order to provide a long-term solution to the deeply flawed facility registration process in this market. Facility registration procedures are proliferating – creating a more viable regional model for a reasonable and trade-friendly approach to tracking exporting facilities would be an excellent outcome in IPEF's trade regulatory forum.

The United States Must Tear Down Nontariff Barriers

Both in the context of IPEF and in every other trade forum, the United States must strive to break down the nontariff barriers that limit export opportunities for U.S. dairy products. A few examples of particularly problematic nontariff barriers are outlined below.

USMCA Implementation and Enforcement

As important as it is to forge new agreements to continue to reduce barriers to U.S. dairy exports, it is critical the U.S. ensure that our trading partners are held accountable for the provisions in our current deals. In this respect, dairy farmers and exporters are counting on full implementation and robust enforcement of the U.S.-Mexico-Canada Agreement (USMCA) in order to preserve and fully deliver on the market access opportunities the U.S. procured for U.S. dairy products into the Canadian market.

The dairy industry greatly appreciates the work of the Administration to initiate and secure a successful verdict in the first dispute settlement panel proceeding ever brought under USMCA, focusing on Canada's breach of its USMCA dairy tariff-rate quota (TRQ) commitments, and also strongly supports the Administration's decision to bring a second panel proceeding against Canada for its continued foot-dragging and refusal to comply with the agreement.

I would like to thank the numerous members of this subcommittee for their strong support on this issue as well. Congress has been a steadfast and bipartisan champion of the importance of enforcing USMCA's dairy provisions, as well as its other areas.

Unfortunately, Canada's revised USMCA dairy TRQ system falls far short of the genuine reforms needed to comply with its USMCA commitments. The U.S. must insist that Canada's full compliance with the agreement is the only acceptable outcome in this case. The future of U.S. dairy exports to Canada depends on this, as does the outlook for the ability of USMCA's dispute settlement system to deliver real change when our trading partners shirk their obligations. Given Canada's history of persistent violations and the high likelihood Ottawa will once again disregard its USMCA obligations, USTR and USDA must be prepared to deploy the strongest-possible retaliatory measures envisioned under the USMCA should Canada's 'whack-a-mole' approach continue. Canada's actions must have consequences.

Other issues must also be monitored and focused on by the Administration to ensure USMCA works for the dairy industry. For example:

- Canadian exports of milk protein isolates (MPI) and certain skim milk blends manufactured under the new Class 4a have been increasing in a manner that appears designed to intentionally circumvent USMCA's dairy protein export disciplines. Curbing Canada's use of global markets to dispose of the excess dairy protein generated by its government-controlled supply management system was a core USMCA objective and must remain a focus area of the Administration.

- Vigilant monitoring and aggressive enforcement will also be necessary with our other USMCA partner, Mexico. Mexico is the largest export market for U.S. dairy products, and the U.S. trade relationship with Mexico is of the utmost importance. Unfortunately, Mexico has seen a proliferation of poorly designed regulations that threaten to disrupt trade and erode the U.S. role as a reliable supplier. These overly burdensome regulatory proposals pose a particular threat to U.S. milk powder and cheese exports to Mexico. Close attention must also be paid to Mexico's implementation of USMCA side letter provisions on geographical indications (GIs) and common food names.

  The U.S. should ensure discussions with Mexico treat its surge in regulatory and customs enforcement issues as a collective concern, and not simply as one-off issues. We need to restore smooth and predictable trading conditions with Mexico to ensure the U.S. and Mexico remain an integrated market fulfilling the promise of USMCA.

Common Food Names

It is essential the Administration undertake intensive efforts to defend the use of common food and beverage names against aggressive global efforts by the European Union to impose GI trade barriers in markets around the world. In principle, GI protections are used to describe specialized products made in a specific region of a country to protect the unique nature of that product. However, the EU has used GIs to restrict the use of generic terms by which millions of consumers recognize some of their favorite foods and beverages. The use of GIs to restrict consumer access to generic named foods must be firmly rejected as the protectionist and anti-trade policy that it is.

To complement the industry-led activities in this area, we have urged the U.S. government to secure firm and explicit trade commitments. Doing so helps assure the future use of specific generic food and beverage names targeted by EU monopolization efforts and rejects the use of GIs as barriers to trade in products relying on common names. This approach enjoys broad support by many members of this subcommittee and other Senators as indicated in a letter to USTR and USDA in 2020 urging such steps.

USMCA's common food name side-letter provisions established a new precedent affirming market access rights for a non-exhaustive list of commonly used product terms. However, to effectively combat the EU's trade-distorting and WTO-illegal actions, the U.S. government must proactively and consistently expand beyond this precedent to rectify these trade barriers with other trading partners. Accomplishing this will ensure market access protections for American-made common food name products are strengthened and these cloaked barriers to trade are rejected.

Volatility in EU Trade Conditions

The EU has an enormous dairy trade imbalance with the U.S., a product of its overly burdensome, bureaucratic approach to trade. Unlike some other long-standing agricultural issues between the U.S. and the EU, the chief problems[5] that U.S. dairy faces in exporting to Europe are driven by red tape, not food safety concerns. The EU imposes overly prescriptive requirements that mandate assurances of compliance with specific EU regulations and employ excessively complex certification requirements that are entirely disproportionate to the level of risk posed by U.S. dairy exports. As a result of this complexity and slow-moving EU bureaucracy, numerous U.S. dairy shipments have been detained in EU ports for months this year.

In the past, even when long and arduous government-to-government discussions resolve a concern, the time involved, and the frequent introduction of new requirements create market instability and uncertainty that put hundreds of millions of dollars of trade at risk. The EU's insistence that its trading partners must mirror exacting process and paperwork requirements and not simply adhere to outcome requirements and reasonable documentation elements fails to comply with the EU's trade obligations and needlessly impedes food trade at a time of growing global food insecurity.

In the near term, the Administration should prioritize immediate release of still-detained shipments and ensure that the EU's relevant authorities provide swift, clear guidance to their ports to avoid future trade disruptions. Once the immediate crisis is resolved, the United States must resume efforts to secure broader recognition of the U.S. dairy regulatory system so that every change in EU regulations and every minor paperwork completion interpretation does not generate cumbersome new certification challenges for U.S. exporters. To truly drive change in the deeply flawed U.S.-EU agricultural trade relationships, the United States must explore ways to utilize the leverage that European reliance on our market affords us.

Growing Latin American Protectionism

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[5] Beyond the common names bans cited earlier in this testimony.

Some of dairy's key Latin American FTA partners are experiencing a wave of anti-import sentiment driven by local producers. For example, Panama has officially requested the renegotiation of trade commitments on certain "sensitive" agricultural products, including dairy. And in Peru, the domestic dairy industry is seeking to prohibit use of the term "milk" on evaporated products produced with milk powder from the U.S. and other sources despite domestic production falling short of satisfying the nation's dairy demand.

The U.S. government must work through government channels to ensure market access remains open for U.S. dairy products. U.S. government should be actively and proactively working in Latin America to insist our trade partners meet their international commitments under U.S. free trade agreements and the World Trade Organization (WTO). All market access benefits for U.S. dairy exports – including in U.S. FTAs – must be fully preserved to avoid sliding backward.

Closing

In closing, the U.S. dairy industry recognizes the importance of expanding overseas market opportunities to bolster our farmers, processors, and manufacturers here at home. We have worked hard to establish the U.S. as a reliable and environmentally sustainable supplier of safe and nutritious products to meet growing foreign demand for high-quality American dairy products. We want to capitalize on these extensive efforts through improved access to these markets.

New trade agreements will be necessary not only to expand market access, but to preserve it, as our competitors grow their own networks of FTAs and in the process threaten to render U.S. exports uncompetitive. The health of the dairy industry, including the many farmers and manufacturing workers it employs throughout its supply chain, will depend on such agreements, on ensuring vigorous enforcement of those agreements, and on bilateral and regional efforts to address trade barriers.

Again, Chairman Warnock and Ranking Member Hoeven, I truly appreciate the opportunity to testify before this Subcommittee and to serve as a voice for the U.S. dairy industry to highlight the importance of global trade to American dairy farmers across the nation.