International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association

Comments by the International Dairy Foods Association
Regarding the National Trade Estimate Report
Docket Number USTR-2013-0027
October 22, 2013

The International Dairy Foods Association (IDFA) appreciates the opportunity to provide comments regarding the National Trade Estimate Report. IDFA represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 550 companies representing a $125-billion a year industry. IDFA is composed of three constituent organizations: the Milk Industry Foundation (MIF), the National Cheese Institute (NCI) and the International Ice Cream Association (IICA). IDFA's 220 dairy processing members run more than 600 plant operations, and range from large multi-national organizations to single-plant companies. Together they represent more than 85% of the milk, cultured products, cheese and frozen desserts produced and marketed in the United States. IDFA can be found online at www.idfa.org.

Canada

Canada was the second largest export market in 2012 for the U.S. dairy industry in terms of value. IDFA would like to highlight a number of Canadian dairy policy measures designed to severely restrict market access for imported dairy products that must be addressed.

Canada's Supply Management Regime

Since 1970 Canada's dairy industry has been operating under a supply management system by which the government is heavily involved in planning and controlling the pricing, marketing, and production (through milk production quotas) of the dairy sector. As a result, Canadian milk producers are guaranteed an artificially high domestic price for dairy products. In order to protect these high domestic prices the Canadian supply management system relies on quotas and prohibitively high out-of-quota tariff rates to restrict dairy imports.

Under its supply management regime Canadian milk prices are well above the U.S. and world market, thus Canada is not commercially price competitive in the world market and has to heavily subsidize exports of products made with Canadian milk. For example, Canada has employed a special class program to reduce the price of dairy ingredients to prevent imports and to facilitate the export of further processed foods at prices more competitively priced for the world market. Canada has been challenged several times at the WTO for similar subsidies and found to be out of compliance with its trade commitments.

Under NAFTA, Canada allows imports of a predetermined annual (in-quota) amount of dairy products in various categories duty free from the U.S., but once the in-quota volume limit has been reached, anything over that amount is subject to prohibitive tariffs of a minimum of 200 percent and up to 313.5 percent. Despite our shared border, U.S. dairy processors have no commercial access to the duty free in-quota quantity allotted for fluid milk and cream, as the quota is considered to be filled by "cross border shopping," or consumers crossing the Canada-U.S. border to purchase milk and cream in the U.S. and returning to Canada. U.S dairy processors also have limited duty free in-quota access for most other product categories. For example, the U.S. is currently limited to exports of 332 metric tons of yogurt per year. Any U.S. exports above this quantity are subject to a prohibitive over-quota tariff of 237.5 percent. U.S. exports of ice cream and most cheeses are also restricted.

Canada's supply management system also requires a dairy import control list which mandates that manufactures of many U.S. dairy products must first find a Canadian company that holds the import quota for the product they wish to import. Dairy processors on both sides of the border would benefit greatly from a more seamless North American market.

IDFA is adamantly opposed to dairy supply management in all forms, at home and abroad. Dairy supply control regimes, such as those existing in Canada, inhibit innovation in our industry, increase consumer costs, distort market forces, manipulate prices relative to world markets, and are completely contrary to the principles of free markets and fair and transparent trade. It should also be noted that Canada's defense of its dairy supply management regime has also resulted in non-tariff measures that attempt to limit imports.

One such barrier is Canada's compositional standards for cheese, implemented in December 2008, which have the effect of limiting imports of cheeses as well as ingredients such as casein, Milk Protein Concentrate (MPC), Milk Protein Isolate (MPI) and Whey Protein Concentrate (WPC) as inputs into cheese making. Cheese making is the primary use for the significant quantity of MPC imported into Canada annually. The standards also have disruptive effects on cheese imports because of red tape and restrictions associated with the standards. It should also be noted that compositional standards for yogurt, which would again have the effect of limiting use of MPC's in yogurt making, are being seriously considered by Canadian officials.

Another barrier is Canada's introduction of a new special class of milk pricing, class 4M, which grants Canadian processors raw milk at subsidized prices well below international market levels for the processing of MPCs designed specifically for use in natural cheese making. Additionally, IDFA is concerned by recent developments in the FTA negotiations between Canada and the European Union (EU) regarding EU demands for the protection of geographical indications (GIs). The protections the EU demanded from Canada will impair market access for cheese and other food products and could complicate Canada's ability to meet a high standard TPP negotiation on the protection of intellectual property rights.

European Union

The EU has the potential to be a large export market for the U.S. In 2012, the EU exported $1.3 billion in dairy products to the U.S. but U.S. companies exported only $89 million in dairy products to the EU. Barriers must be removed for U.S. dairy products in order to correct this trade deficit.

One challenge is geographical indications (GIs). GIs are an attempt by the EU to monopolize usage of certain cheese and other food names that the U.S. and many other countries regard as generic. Retaining the use of product names that have long been commonly used in the U.S., as well as in many other areas around the world, is a very important issue to the U.S. dairy and processed foods industries. For food products, this most significantly impacts cheese production.

The importance of these well-recognized cheese names goes beyond solely their significant commercial impact to the U.S. dairy industry, however. Preservation of the right to continued use of these names affirms what producers throughout much of the New World and certainly this country strongly believe to be true – that we are using these terms in good faith and largely as a result of the influence of generations of European emigration. The EU's desire to turn back the clock and now seek to monopolize names that had already become generic is an affront to the many companies – small and large – who have worked to help build the markets for these products, as well as to the industry as a whole through the incorrect suggestion that our use of these terms has not been legitimate.

We view these efforts by the EU to ban our food producers from using several important names that have long been generic in the U.S. market and are commonly used internationally as well, as de facto barriers to trade. They are a clear effort by the EU to limit competition and to bestow upon their producers a considerable portion of the value of markets that our companies have devoted time and resources to helping build.

The focus should be on finding an acceptable resolution to the trade barriers that our industry has experienced as a result of the EU's over-reach on GIs. Examples of these barriers include our inability to sell parmesan and feta into the EU and the EU's increasingly aggressive efforts to block us from selling those and other products into important export markets as well. The EU has recently signed FTAs with Central America, Colombia, Peru, Panama, Singapore, and Canada. Talks with Japan are in the works. The EU's GI agenda is such that Italy was able to delay implementation between the EU and El Salvador and Costa Rica until all of the proposed GIs were approved. It is unclear if local industry, let alone U.S. exporters will be able to continue marketing their products without a trade disruption.

IDFA's top concern is that the uncertainty and lack of resolution surrounding this issue will delay negotiations between the U.S. and the EU in the Transatlantic Trade and Investment Partnership. We urge the U.S. government to find a workable solution that benefits both sides without further restricting trade.

IDFA appreciates the opportunity to provide comments on this matter.

Sincerely,

Beth Hughes
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International Dairy Foods Association