



**Comments by the
National Milk Producers Federation and the U.S. Dairy Export
Council on Promoting Supply Chain Resilience
Docket Number USTR-2024-0002**

Our organizations submit the following comments in response to the Request for Comments on Promoting Supply Chain Resilience (USTR-2024-0002).¹ 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.

In addition to these written statements, NMPF and USDEC request the opportunity to testify to the points cited below at the public hearing to be convened by USTR on May 2, 2024.

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.

The resilience of global supply chains is paramount for the U.S. dairy industry, which last year exported \$8.11 billion worth of dairy products, representing 16.6% of milk solids production in the United States.² These exports support thousands of jobs throughout the industry and the export supply chain. This significant contribution underscores not only the vital role of international markets in sustaining the U.S. dairy sector's growth and profitability but also highlights the importance of robust and reliable supply chains to meet the demands of global consumers efficiently.

Comprehensive trade agreements play a crucial role, providing a framework for reducing trade barriers and enhancing market access to key partners. These agreements ensure that U.S. dairy products can compete on a level playing field in highly competitive international markets. Strengthening supply chain resilience further supports the industry's ability to capitalize on these agreements, ensuring that U.S. dairy farmers and processors can continue to contribute significantly to the national economy through exports. The emphasis on resilient supply chains is not just about maintaining operational continuity; it is about securing and expanding the global

¹ 89 Fed. Reg. 16,608 (March 7, 2024)

² U.S. Dairy Export Council | Trade Data Monitor

footprint of U.S. dairy products in a sustainable and profitable manner – to the benefit of the American farmers and workers throughout the industry.

The comments below endeavor to address the questions posed by USTR on how the United States can strengthen supply chain resilience for American dairy exporters:

- **How can U.S. trade and investment policy, in conjunction with relevant domestic incentive measures, better support growth and investment in domestic manufacturing and services?**

Comprehensive trade agreements, coupled with robust World Trade Organization (WTO) disciplines, have proven to offer the best opportunity to open foreign markets to U.S. dairy products. That in turn magnifies the benefits of investing in and growing domestic manufacturing and services while discouraging U.S. dairy processors from setting up facilities to instead produce overseas.

An inclusive, worker-centered trade policy should reflect the central role that comprehensive trade agreements and American exports play for the agricultural economy and the many farmers and workers throughout the supply chain who rely on it. Expanding export sales does not only support America's farms, but also workers in companies supplying inputs and services, in downstream food manufacturing plant jobs, and in cities with large port facilities heavily dependent on trade.

In addition to those agreements, robust efforts to insist on trading partners' compliance with their WTO and free trade agreement (FTA) commitments is critical. While tariffs drive the most sizable gaps U.S. dairy exporters face in terms of competitiveness with other key dairy suppliers globally, non-tariff barriers play a sizable and growing role in impeding the growth and flow of U.S.-produced dairy products. NMPF & USDEC detail the most pressing of those concerns in our annual National Trade Estimate submission each year.

- **What existing or new tools could help ensure that growth in domestic manufacturing and services does not undergo the same offshoring that we have experienced over the past few decades?**

Ensuring that the United States remains an attractive location for producing and exporting goods and services is the best way to make certain that growth in manufacturing and services remains in the United States. Comprehensive trade agreements can contribute to that outcome. The Administration should use trade agreements as an opportunity to incorporate its priorities – whether on labor, environment or other issues – into those commitments and incentivize countries to agree to abide by them by conditioning improved market access into the United States on adherence to those trade agreement terms. Robust rules of origin, similar to those employed for various agricultural products in current U.S. FTAs, can further help ensure that those market-opening benefits accrue to the agreement's parties rather than to other nations.

In contrast, if the United States increasingly does not keep pace by pursuing tariff parity for our exports with other major agricultural exporting countries, U.S. companies will be incentivized over time to seek out other countries to use as export hubs rather than continuing to expand production and facilities in the United States to meet the world's growing needs.

- **How can U.S. trade and investment policy promote a virtuous cycle and “race to the top” through stronger coordination and alignment on labor and environmental protections within trusted networks among regional and like-minded trading partners and allies?**

Comprehensive trade agreements provide leverage to raise labor and environmental standards in partner countries to the degree a given U.S. Administration and Congress may see fit. Each successive U.S. trade agreement over the past three decades has broadened and strengthened labor and environmental commitments. The most recent U.S. trade agreement – the U.S.-Mexico-Canada Agreement (USMCA) – is frequently held out as a model with respect to its obligations on both areas.

We recommend commencing reengagement on comprehensive trade negotiations by pursuing talks with a trading partner with existing laws that provide a high level of labor and environmental regulations and standards to build upon the type of precedent established with USMCA. The United Kingdom would provide an excellent proving ground for doing so. Critically, however, policies on labor and environmental issues are only two components of a well-rounded trade agreement. The United States must also continue to expand opportunities for U.S. export-oriented sectors, such as agriculture, to ensure the agreements deliver returns to the U.S. economy by supporting the capacity for growth in those areas of the economy focused on producing in the United States and exporting to the world.

- **What are examples of trade and investment policy tools that potentially could be deployed in the following sectors to enhance supply chain resilience? In these sectors, what features of the current policy landscape are working well, or less well, to advance resilience?**

Negotiations with trading partners should include a suite of trade policy tools that enhance supply chain resilience for dairy exporters. Such tools can include provisions to reduce tariff barriers and incorporate strong product-specific rules of origin related to dairy trade. Trade agreements should also include commitments regarding unwarranted sanitary and phytosanitary (SPS) and Technical Barriers to Trade (TBT) measures. These provisions are essential to ensure that import compliance measures are based on science and do not serve as unjustified trade barriers, thus facilitating smoother international trade flows. Additional measures should be incorporated in trade negotiations as well to protect common food and beverage terms like “parmesan” and “feta” from monopolization attempts by U.S. competitors.

These tools are important in preserving and growing market access, building more robust supply chains in the process, but effective enforcement of negotiated trade obligations is likewise critical. Effective and efficient dispute settlement provisions in trade agreements ensure that trading partners can be held accountable for their commitments.

- **What additional sectors may need dedicated trade and investment policy approaches to advance supply chain resilience? What should such approaches entail? With respect to those sectors, what features of the current policy landscape are working well, or less well, to advance resilience?**

Beyond the existing trade tools critical to ensuring a resilient supply chain for U.S. dairy exporters, NMPF and USDEC recommend USTR incorporate dairy-specific elements in trade negotiations, drawing on the precedent set by annexes for wine in various agreements, or the broad recognition of the U.S. regulatory system for processed foods (including dairy) in the U.S.-

Panama Trade Promotion Agreement. These provisions could address specific issues pertinent to dairy trade, such as targeted SPS and TBT issues, protections for common cheese names and systems recognition that could limit onerous dairy import certification and listing requirements. Such steps would facilitate smooth, more reliable and robust dairy supply chains with our trusted trading partners.

- **How can the development of technical standards and regulations support supply chain resilience?**

Ensuring that U.S. trading partners adopt science-based, transparent SPS measures, evidence-based measures on TBTs, and transparent, predictable and functioning import procedure regimes would be an important step in enabling U.S. dairy producers to further diversify their export markets and make their supply chains more resilient.

Regulatory barriers such as onerous facility listing and certification requirements that U.S. dairy exporters struggle to contend with in markets around the world can be proactively mitigated through commitments from trading partners to recognize the safety of the U.S. dairy system. By way of example, as referenced briefly above, the U.S.-Panama exchange of letters³ regarding processed foods (expressly including dairy) exempts those products from any current or future facility listing requirements and disciplines certificate requirements. In the exchange of letters, Panama committed to specific disciplines in its application of various food inspection, registration, and certification requirements. This commitment has been a bullwork against non-tariff barriers that could otherwise threaten the smooth functioning of the U.S.-Panama dairy supply chain.

Ongoing and future trade negotiations should include similar commitments from trading partners to deter the threat of future trade impediments and ensure supply chain resilience. Moreover, the United States should continue to invest in and prioritize work to advance science-based standards through the World Organization for Animal Health (WOAH) and the Codex Alimentarius process. In doing so, the United States must combat the efforts of certain trading partners to erode those organizations' scientific foundation. They remain the bedrock of technical standards and regulatory developments worldwide. Codex and the WOAH facilitate fair trade and serve as valuable tools for providing model standards and regulations to developing countries that may lack the capacity to fully develop them on their own.

- **There is concern that preferential rules of origin in free trade agreements can operate as a “backdoor” benefiting goods and/or firms from countries that are not party to the agreements and are not bound by labor and environmental commitments. What actions could be taken to mitigate these risks and maximize production in the parties? What policies could support strong rules of origin and adherence to rules of origin?**

Guarding against such free-riding as it relates to dairy products is precisely why NMPF and USDEC have strongly supported the robust product-specific rules of origin for dairy products that the vast majority of U.S. trade agreements include. USTR should consult on a sector-by-sector basis to evaluate how best to craft sector-specific rules of origin to concentrate the largest possible share of benefits flowing from a bilateral or regional trade agreement to the parties to that agreement to best balance the agreement's obligations and benefits.

³ See <https://ustr.gov/sites/default/files/2006%20US-Panama%20SPS%20letter%20exchange%20Text.pdf>.

- **What factors are driving supply chain and sourcing decisions, and how does trade and investment policy impact them? How do companies factor geopolitical risk into their global and domestic manufacturing and sourcing decisions? How do companies take into account traceability and transparency considerations in supply chain and sourcing decisions?**

Geopolitical risks are carefully considered by exporters when making global marketing decisions. Factors such as trade tensions and regulatory changes can disrupt supply chains and impact profitability. As a result, dairy exporters often seek to diversify their export destinations to mitigate geopolitical risks. Likewise, dairy importers frequently factor in geopolitical risk when making global sourcing decisions.

By reducing foreign tariffs and other trade restrictions, and strengthening ties with geopolitical allies, comprehensive trade agreements play an essential role in ensuring that U.S. exporters can compete on a level playing field with their foreign competitors when their customers make sourcing decisions. Comprehensive trade agreements also create a more stable economic relationship that is better situated to withstand geopolitical economic shocks and provide export outlets when those shocks limit other export opportunities.

Commitments from trading partners regarding transparency into regulatory system changes play a crucial role in shaping the landscape for U.S. dairy exporters. Timely and transparent notifications provide U.S. exporters with essential information about regulatory updates and changes in trading partners' markets, allowing them to adapt their strategies accordingly. By staying informed about shifts in regulations related to sanitary and phytosanitary standards, labeling requirements, and import procedures, U.S. dairy exporters can ensure compliance with foreign market regulations, thereby avoiding potential trade barriers or disruptions. USTR should endeavor to secure these transparency commitments from trading partners to enhance predictability in international trade, fostering greater confidence and certainty for U.S. dairy exporters as they navigate global markets.

- **How can U.S. trade and investment policy support supply chains that are inclusive of small, disadvantaged businesses and underserved businesses, including minority-owned and women-owned businesses, veteran-owned businesses, service-disabled veteran owned small businesses, and HUBZone businesses, and promote trade opportunities in underserved communities?**

Over two million workers throughout the United States are directly employed in agriculture⁴, many of whom live and work in underserved communities, as defined by the White House Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government⁵. These rural communities in which American farming and processing overwhelmingly are located rely heavily on export opportunities. In light of the type of products

⁴ U.S. Department of Agriculture. (2022). 2022 Census of Agriculture: Volume 1, Chapter 1 - U.S. National Level Data.

⁵ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> . "Sec. 2. Definitions. For purposes of this order: (a) The term "equity" means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as...**persons who live in rural areas**... (b) **The term "underserved communities" refers to populations sharing a particular characteristic**, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, **as exemplified by the list in the preceding definition of 'equity.'**"

they produce, export competitiveness with other major suppliers to global markets is essential. Trade agreements have played a major role in allowing for growth in American agriculture in years past and are a key pillar to continuing to expand employment in U.S. farming and food processing.

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