Comments by the
National Milk Producers Federation and the U.S. Dairy Export Council
Regarding Unfair Trade Practices and Non-Reciprocal Trade Arrangements
FRN USTR-2025-0001
March 11, 2025

The National Milk Producers Federation (NMPF) and U.S. Dairy Export Council (USDEC) appreciate the opportunity to submit comments in response to the Federal Register Notice FR Docket No. USTR-2025-0001.

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 that represents the global trade interests of U.S. dairy producers, proprietary processors and cooperatives, ingredient suppliers and export traders. Dairy Management Inc. founded USDEC in 1995 and, through the dairy checkoff program, is the organization's primary funder.

Importance of Exports to the U.S. Dairy Industry

Exports play an indispensable role in supporting America's dairy farmers and processing manufacturing jobs across the nation. Last year, the U.S. dairy industry exported close to $8.3 billion in dairy products overseas, equivalent to 18 percent of total U.S. milk production. The United States also imported $5.4 billion in dairy products last year with $2.9 billion of this coming from the European Union.

Existing U.S. trade agreements have played a major role in creating the current landscape that's allowed U.S. dairy exports to increase by roughly $7 billion in the past 20 years. In fact, we run a dairy trade surplus with each of our bilateral trade deal partners.

The industry has reached these heights despite being forced to operate at a significant disadvantage to our international competitors. For well over a decade now, the United States has not kept pace in expanding market access opportunities, while the Europe Union and New Zealand have been successfully negotiating trade agreements with key dairy importing countries. For American producers and exporters, that often means we have to contend with higher tariffs and burdensome trade barriers.

It's vital to ensure that today's policies also create ample opportunities for U.S. agricultural export expansion in the coming decades as well, especially to make sure that U.S. exporters can keep up with their global competitors.

NMPF and USDEC were pleased that President Trump's Jan. 20 Executive Order on an America First Trade Policy included the requirement for recommendations on countries with which the United States can pursue bilateral or sectoral agreements. We see this as a key step toward helping bridge the growing tariff gaps facing U.S. exporters. Whether the U.S. pursues broader agreements – such as the one President Trump initiated pursuit of with the UK in 2018 – or more targeted ones such as the U.S.-Japan

Phase One agreement, tariff reductions for our dairy exporters are essential to fair global competition, particularly in regions such as Southeast Asia, the Middle East and the United Kingdom. With global demand for dairy expected to continue to grow, American farmers and manufacturers are relying on Congress and the Administration to work together to enforce U.S. trade agreements and ensure a more level playing field for American-made and processed exports to compete in international markets.

As it relates to trading partners with a generally positive track record of productive trade engagement with the U.S. (i.e. most dairy trading partners), we encourage the Administration to use this Fair and Reciprocal Trade review process to enter into negotiations with those countries to secure agreements that result in mutual benefits and improved opportunities for U.S. dairy exporters. As part of that process, we encourage the Administration to treat Value Added Taxes as equivalent to sales taxes rather than as a barrier to U.S. exports. Since VATs hit other trading partners and our competitors within the export destination country identically, they do not put U.S. exporters at a disadvantage.

We note, however, that this collaborative approach to reaching a mutually beneficial outcome would not prove successful with one major trading partner: the European Union (EU). The U.S. has a decades-long track record of attempting to engage productively and positively with the EU on agricultural issues. This has unfortunately only resulted in soaring agricultural trade deficits with the EU. EU agricultural exports to the U.S. have steadily climbed thanks to the favorable tariff and nontariff environment the U.S. provides to imports from the EU while U.S. agricultural exports to the EU have essentially flatlined for decades due to the steeper tariff and nontariff barriers imposed on U.S. products by the EU. The agricultural trade deficit will also widen even further if the EU proceeds to implement some of the proposed measures in its new Vision for Agriculture. This dynamic of an open U.S. market to EU products and a tightly sheltered EU market for U.S. products must fundamentally change. Doing so will require a much firmer approach than that needed with the other trading partners referenced in the following comments.

Global/Multi-Market Trade Issues

We recognize that the FRN requests input on a country by country format. There is one unfair trade practice, however, that is relevant globally – impacting or threatening to impact essentially all U.S. trading partners – and that is the misuse of geographical indications (GIs) to restrict the sale of products using common food names.

Misuse of GIs to Block Use of Common Food Names

Over the past decade-plus, the EU has abused and misused geographical indication rules to target dairy products by banning the use of common names, like parmesan, havarti, and feta. By monopolizing generic food and beverage terms, the EU essentially strips the ability of U.S. dairy producers to sell their products in the European Union, as well as in key export markets where the EU has negotiated protections for its illegitimate GIs. This trade barrier is now threatening to impact an increasing number of markets including: Argentina, Australia, Brazil, Canada, China, Colombia, Costa Rica, El Salvador, EU, Guatemala, Honduras, Israel, Indonesia, Japan, Morocco, Nicaragua, Panama, Peru, Philippines, Singapore, South Africa, South Korea, Taiwan, Thailand, UK, Uruguay, Vietnam.

The Administration and Congress should firmly reject the continuation of these unfair common name restrictions and proactively protect U.S. exporters' rights to use common names in export markets. To do so, the U.S. should build on the precedents set with Mexico and Chile of creating understandings via formal letter exchanges protecting U.S. exporters' rights to use specific common names.

Bilateral Trade Issues

In keeping with the FRN's direction to provide input on a country by country basis, the following comments follow that format. Note: for several markets that are tightly sheltered from imports due to particularly high tariff barriers, we have calculated an estimated value of the total dairy consumption in that market as an indicator of its market potential. For other markets that are more open to imports (or for which data to estimate total consumption is insufficient), we have cited the value of their total global dairy imports as an indicator of the market potential.

- **Brazil**

  Brazil is a sizable dairy market yet one that presently one that is quite inaccessible to most U.S. dairy exports. Last year, the U.S. exported $113 million to Brazil; 83% of this was lactose and whey protein concentrate – two tariff lines for which tariffs are commercially feasible. For other major dairy products such as milk powder and cheese the present tariffs are considerably more.

  As the Administration looks for ways to ensure that the agricultural trade relationship with Brazil is fully reciprocal, we encourage a focus on reducing Brazil's dairy tariffs for key products.

  The overall value of the Brazilian dairy consumption market is estimated to be $21.8 billion, indicating the ample opportunities that exist in this market were trade constraints to be addressed.

- **Canada**

  We need to ensure Canada finally holds up its end of the bargain on dairy in USMCA by fixing both our export issues into Canada and the excessive offloading of artificially low-price Canadian dairy protein into the U.S. and global markets. Canada's present unfair trade practices are undermining the intent of USMCA and denying the U.S. dairy industry the benefits the agreement set out to deliver.

  The overall value of the Canadian dairy import market is estimated to be $1.5 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

  TRQ Manipulation

  Unfortunately, Canada has a long history of attempting to undermine previously agreed-to market access. USMCA strived to make headway into this traditionally restrictive market, but Canada has repeatedly failed to comply with dairy market access negotiated under the agreement.

  Canada has manipulated its dairy tariff-rate quotas (TRQ) policies to ensure low fill rates across most product categories for U.S. exporters while also depressing the value of product imported under the TRQs that are filling. At its core, the issue revolves around two main aspects.

  - Canada reserves the overwhelming shares of the quotas for its own domestic dairy processors of the product in question (i.e. most butter TRQs go to Canadian dairy companies making butter), which effectively forces U.S. exporters to sell to their competitors. Retailers are entirely excluded from this process while importers/distributors are relegated to a very small sliver of the quota access. In order to award the quotas to its processors, Canada is using administrative procedures that are neither fair nor equitable.

- Canada’s process for reallocation TRQs from year to year does not gradually shift the quotas toward firms that will make better use of them. There are no penalties for sitting on the TRQ volumes most of the year and then turning them back in with a few months to go. This ensures that the flawed allocation system stays entrenched, rather than improving over time.

As a result of these issues, U.S. dairy exporters are cheated out of the market access benefits promised to them by USMCA. To address these intentional shortcomings, Canada should be required to provide “back pay” to provide the access it has refused to offer these past five years, and also reform its TRQ administration procedures to address the problems cited.

Protein Export Loophole

Shortly before the negotiation of USMCA, Canada had begun to routinely offload excessive quantities of dairy protein onto global markets at artificially low prices. This hammered U.S. prices and exports. It caught President Trump’s attention and was a key part of why he was adamant that new export access wasn’t enough; changes to Canada’s dairy exports were essential to get in USMCA as well.

USMCA sought to fix this issue by creating export disciplines on a variety of Canadian dairy protein exports. The products listed in USMCA's dairy export disciplines text are skim milk powder, milk protein concentrate (of tariff code 040490) and infant formula.

Regrettably but predictably, Canada has systemically circumvented the dairy protein export caps by shifting production to different tariff codes. Canada’s escalation of this tactic threatens to render USMCA dairy protein export disciplines a hollow formality. That would allow Canada to keep growing its dairy production and offloading the excess quantities of dairy protein onto the U.S. and other markets – exactly the problem that USMCA negotiations sought to initially address.

To curb this, the U.S. must take steps with Canada to close these loopholes to ensure that Canada manages its total dairy protein exports – one of the major goals of USMCA.

- **China**

While China has become a strong and positive trade partner for U.S. dairy with imports hitting a record $803 million in 2022, its appetite for U.S. dairy products like milk powder, cheese and whey slipped back to $584 million last year and has certainly not yet reached its potential. For comparison, last year New Zealand and Europe exported $660 million in cheese to China. The U.S. is a much larger cheese producer and has new cheese production capacity coming online in the next few years. This creates a sizable opportunity for us if China could be persuaded to shift more toward U.S. sourcing.

Our comments below address three key goals that we urge the Administration to pursue as it works to establish fairer and more reciprocal trade overall with China. Each relates to elements of the important U.S.-China Phase One Agreement – an arrangement that made important progress on a number of key nontariff dairy issues yet also has remaining areas for further improvement and faithful implementation.

The overall value of the Chinese dairy consumption market is estimated to be $38.4 billion, indicating the ample opportunities that exist in this market were trade constraints to be addressed.

Encouraging Additional Purchases of U.S. Goods

Under the 2020 US-China Phase One Agreement, China agreed to increase purchases of certain U.S. goods. China came relatively close to meeting those targets for agriculture before pandemic conditions prevailed. For dairy though, there has not been a significant increase in purchases of major dairy commodities from the U.S. NMPF and USDEC look forward to working with the Administration to ensure that China follows through on additional procurements of U.S. cheese and dairy products.

Timely Dairy Facility Registrations

The Phase One deal specified that China must register and publish an updated list of approved U.S. dairy facilities, and allow imports from those facilities, within 20 working days of notification of any new facilities by the U.S. Food and Drug Administration. However, U.S. companies are currently experiencing delays of many months. Prior updates have at times occurred only on the very day that the old registration was due to expire, creating sizable business uncertainty for both U.S. and Chinese companies. China should adhere to the 20 working day timeframe for all dairy facility updates that it committed to under the agreement.

Protecting Common Food and Beverage Names

Despite publicly committing to protecting common names as part of the intellectual property section of the U.S.-China Phase One Agreement, China's intellectual property office (IPO) has taken steps that would grant EU exporters monopoly rights over certain widely used terms, (including parmesan) at the expense of other trading partners, Chinese buyers and, ultimately, Chinese consumers. Specifically, China's AQSIQ division had previously determined that the GI Parmigiano Reggiano did not extend to restrictions on parmesan. Despite this China IPO and the courts ruling on IPO cases have taken the opposite viewpoint in. China should uphold its Phase One commitment to protect common names and ensure that China IPO takes actions that are consistent with prior Chinese government determinations on common names.

Whey Permeate for Food Use

The Phase One Agreement required China to complete the approval process for U.S. dairy permeate powder for human consumption and allow its importation. Despite the conclusion of the approval process there remains persistent commercial uncertainties regarding use of dairy/whey permeate for human consumption due to Chinese labeling requirements. We urge the U.S. and China to work together to resolve this issue so that Chinese companies can use dairy/whey permeate for food uses with total assurance that doing so is permitted.

- **Colombia**

There are two unfair trade practices of concern at present in this valuable U.S. FTA partner's market. The overall value of the Colombian dairy import market is estimated to be $205 million, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

Countervailing Duty Case

Since last year, Colombia's government has pursued an entirely baseless and politically motivated countervailing duties case against U.S. milk powder exports. Colombia alleges that milk powder exports are subsidized and harming its dairy farmers. Neither is true. Safety net supports to U.S. dairy farmers do not flow through to U.S. milk powder manufacturers. And as the U.S. government itself laid out clearly in its submissions in the case, there is no evidence of harm caused by U.S. milk powder exports. At present the government appears poised to impose CVD tariffs of 2.8% on U.S. milk powder exports despite the fact that the U.S. has shown quite clearly that there is no objective basis to do so. To avoid harmful impacts in this market and a negative precedent that could impact other markets in the future, it is critical that the U.S. prevail upon Colombia to reach the only conclusion that can be supported by the facts of the case – that the appropriate CVD rate should be 0%.

Dairy Facility Registration

In 2018, Colombia's INVIMA authority issued a regulation that requires mandatory plant inspections by Colombian health officials for all dairy importers. Implementation of the regulation was delayed but is now scheduled for summer of 2025. For countries that have an FTA with Colombia, the decree permits systems recognition upon the request of the exporting country. The U.S. should work with Colombia without delay to request and secure this systems recognition. Failure to grant a systems recognition to the U.S. for its dairy system would constitute an unfair trade barrier. Proactive steps are needed to avoid such an outcome.

- **Costa Rica**

There is one primary unfair trade practice of concern at present in this valuable U.S. FTA partner's market. The overall value of the Costa Rican dairy import market is estimated to be $91 million, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

Facility Registration

Costa Rica's Ministry of Agriculture's National Animal Health Service (SENASA) requires manufacturers to register their plants via completion of a lengthy and burdensome questionnaire, which includes disclosing proprietary information. Moreover, the total plant registration timeline can take up to more than six months to review and approve, putting new U.S. dairy exports to Costa Rica at a disadvantage. USDA has been working to negotiate a streamlined approach based on a systems recognition for U.S. facilities to register with only brief/straightforward information. To allow U.S. exporters to fully access this FTA partner market without impediments, alignment around a workable systems recognition process for all U.S. dairy facilities is critical.

- **Egypt**

Egypt is an important trading partner. It could be an even stronger one were there better tariff access to this market for U.S. dairy exports. As the U.S. looks at its broader trade relationship with Egypt, we encourage the inclusion of dairy tariff reductions as a key element that could promote improved overall reciprocal trade flows with Egypt. In addition, there is an unfair trade practice pending in Egypt that merits the Administration's attention to ensure it is not implemented and that a successful resolution is secured. The overall value of the Egyptian dairy import market is estimated to be $690 million, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

Sole-Source Halal Certifier Requirements

In September 2021, the Egyptian government abruptly declared that all dairy exports must be certified as Halal, the certification must be completed exclusively by a company named IS EG HALAL, the label or packaging must include IS EG HALAL's mark, and shipments must include a Halal certificate issued by the exclusive certifier. IS EG HALAL is a company partially owned by the Egyptian government. Implementation of the requirement has been delayed multiple times, with the most recent action delaying the implementation through December 2025.

U.S. dairy exporters have already been successfully certifying their products as Halal for multiple markets around the world utilizing a variety of Halal certifying bodies. Halal certification in principle does not pose a concern. However, Egypt's approach to implementing this Halal requirement acts as a nontariff trade barrier by initially mandating use of one firm as a condition for entry into the market, subsequently expanding the scope of the allowed firms to still include only Egyptian-affiliated firms rather than also including the various established Halal certifying bodies that attest to products being shipped to other markets, failing to provide a publicly available fee schedule that ensures prices are connected to the cost of providing the service by this partially government owned company, and failing to provide clear information in writing on the scope of requirements.

The threat of this unfair trade practice has lingered long enough and needs definitive resolution.

- **EU**

The dairy trade relationship between the United States and European Union is largely defined by the gaping bilateral gap in sales and opportunities between our two markets. The scale is staggering: European dairy producers export $3 billion worth of products to the United States, while U.S. dairy producers export only $167 million in dairy products to the EU. This is just one element of the total U.S. agricultural trade deficit with the EU which amounted to $23.6 billion last year.

Beyond this astonishing trade deficit, the EU has grown accustomed to seeking to rewrite the trade and agricultural policies of other countries to its own benefit – and the United States' detriment. In doing so, the EU is advancing an unfair and unscientific approach that significantly handcuffs the full potential of U.S. dairy.

The U.S government needs to fundamentally reset its agricultural trade relationship with the EU. Although every country has the right to form their own agriculture policy, those policies cannot act as thinly disguised barriers to trade. Yet all too often, this is what EU policy-making entails. Abusing agricultural policies to prevent the import of safe products or to encourage other countries to apply policies thwarting trade clearly crosses the line from appropriate domestic policy tools to unjustifiable barriers to trade.

The EU has shown no inclination to make reforms to its protectionist and trade-distorting regulatory policies. In fact, it appears poised to take even more restrictive trade actions as evidenced in its newly released Vision for Agriculture and Food. The U.S. needs to leverage the EU's reliance on our food and agriculture market more effectively to shift the EU's approach to import policy and empower U.S. exporters to grow their businesses in Europe.

The U.S. relationship with the EU on agriculture is precisely the sort of deeply flawed, consistently imbalanced dynamic that a reciprocal trade policy should focus on addressing through both tariff and nontariff measures.

The overall value of the EU dairy consumption market is estimated to be $107 billion, indicating the ample opportunities that exist in this market were trade constraints to be addressed.

EU-Specific TRQs

European producers benefit from multiple EU-specific dairy tariff-rate quotas (TRQs) for exporting to the U.S. market. On the other hand, there are no U.S.-specific dairy TRQs for access to the European market. This is just one example of how European exporters enjoy expansive access to the American market, while the EU goes to great lengths to handcuff U.S. exports.

Regulatory Challenges

The EU has continually thwarted free trade through the use of constantly changing regulations that make sales in the European market needlessly complicated, costly, unpredictable or even illegal. When challenged about the ample hurdles facing U.S. exporters to the EU, EU SANTE officials have declared that there are no barriers to trade, merely EU requirements.

These EU requirements, however, seek to impose detailed process-based EU procedures regarding how products should be produced onto imported products. The U.S. in contrast, focuses primarily on the outcomes of the dairy being imported into the U.S. U.S. requirements focus on whether the cheese or milk powder is safe for human consumption and not at risk of introducing a contagious animal disease into this country. EU requirements focus on how a dairy farmer farms even if the final product shipped complies with outcome-based EU food safety requirements.

As seen in the EU's Vision for Agriculture and Food, this EU approach of dictating to the world how to farm continues to escalate and is entirely unsustainable. The U.S. must reject it.

A few current examples include:

Dairy & Composite Certificate Requirements

In late 2020 the European Union announced a myriad of changes to its import certificates for dairy, composite products, and other U.S. exports that included significant new animal health requirements. The new requirements went beyond the animal disease status of the exporting country to include new demands on on-farm practices. The European Union's increasing insistence that its trading partners must mirror process requirements, not simply outcome requirements, fails to comply with its trade obligations and needlessly increases the volatility of supplying the EU market.

Anti-Microbial Resistance "Reciprocity" Requirement

In January 2019, the European Union included a requirement in Regulation 2019/6 to restrict the use of certain antimicrobials in food production and demanded that all countries exporting to the European Union also restrict the on-farm use of antimicrobials in line with this legislation. The European Union has since continued to advance this trade-distorting regulation that fails to comply with WTO rules. In July 2022, the European Union published its list of antimicrobials restricted to use in humans. While the current list will allow trade to continue, further expansions of the list could risk cutting on trade merely due to what U.S. veterinarians may prescribe to treat U.S. cows.

In addition to the above, the EU continues to contemplate imposing its domestic animal care regulations on farmers in its trading partners. Such an approach could impose crippling costs on U.S. dairy farmers despite their operation under the ISO-certified, WOAH-compliant Farmers Assuring Responsible Management (FARM) program for dairy animal care.

These types of overly prescriptive regulations force U.S. producers and exporters to jump through hoops to access the European market. Even then, regulators often nitpick paperwork issues on certificates, adding another burdensome layer. This is in sharp contrast to EU exports to the U.S., which operate quite smoothly, simply, and consistently with extremely light paperwork requirements for EU dairy imports into the U.S.

Common Food Names

Over the past decade-plus, the EU has abused and misused geographical indication rules to target dairy products by banning the use of common names, like parmesan, havarti, and feta. By monopolizing generic food and beverage terms, the EU essentially strips the ability of U.S. dairy producers to sell their products in the European Union, as well as in key export markets where the EU has negotiated protections for its illegitimate GIs.

Adding insult to injury those very same EU GI entities rely heavily on sales of their products to the U.S., reaping ample rewards from this lucrative market while working to prevent U.S. cheese manufacturers from selling their products not only in the EU but in other global markets. The proceeds from those U.S. sales in effect help to fund those GI entities' campaigns against U.S. exports.

The Administration and Congress should firmly reject the continuation of the EU's abusive and trade-distorting common name restrictions and proactively protect U.S. exporters' rights to use common names in export markets.

- **India**

Last year the United States exported $53 million of U.S. dairy products to India, a fraction of the potential opportunity that we see in this large and growing dairy market were U.S. exports not held back by artificial barriers to trade. There remains a strong appetite in the U.S. dairy industry to gain more open and fairer access to this sizable market, particularly as India's demand for high-quality dairy outstrips the present supply.

The overall value of the Indian dairy consumption market is estimated to be $111 billion, indicating the ample opportunities that exist in this market were trade constraints to be addressed.

Tariffs

India maintains high tariffs on most dairy products. For instance, the total applied tariff on U.S. cheese exports can reach 56.8%. (MFN base tariff of 40% plus a 12% Integrated Goods and Services Tax (IGST), and a 10% Social Welfare Surcharge (SWC); the additional IGST and SWC duties are levied on the Maximum Retail Price (MRP) declared on the labels and not on the declared value of the goods.)

Unscientific Dairy Import Certificate

In addition, and most problematically, since 2003 most American dairy exports have not been allowed entry to the Indian market due to unscientific and overly burdensome Indian dairy import certificate requirements. Despite over two decades of the United States government providing considerable scientific data documenting the safety of U.S. dairy products and proposing various resolution pathways, the Indian government has persisted in refusing access for the vast majority of U.S. dairy products due to certification requirements for dairy cattle feed that are not science-based nor aligned with World Organization for Animal Health guidance. Instead, every few years India has introduced additional restrictions by expanding its interpretation of the scope of products affected by its unfounded dairy certificate requirements and, most recently, by introducing additional new attestations.

USTR rightfully revoked India's Generalized System of Preferences (GSP) eligibility in 2019 due to India's failure to meet its obligations under the program to "provide equitable and reasonable access to [its] market." **India's continued refusal to provide dairy market access by removing its blatantly protectionist certification requirement on animal feed is an excellent example of a unfair and non-reciprocal trade practice.** Given this, we strongly recommend that India's high barriers to market entry for U.S. dairy and agricultural products be prioritized for striking a reciprocal trade balance that takes into full account the nontariff issues impeding U.S. dairy exporters for over two decades. The U.S. should not continue to provide access to the U.S. market to India while it persists in refusing to resolve this nontariff trade barrier.

- **Indonesia**

Indonesia is a valuable trading partner and one that we encourage the U.S. to pursue expanded dairy access with by pursuing tariff reductions for key dairy products. For those with permission to ship to the market, Indonesia has generally been a positive trading partner. As Indonesia rolls out its Free Nutritious Meals program of introducing school meals across the country, the U.S. dairy industry is partnering with Indonesia to support their farmers' and is eager to ensure that policy constraints are dealt with so that the U.S. can play a major role in providing the necessary complementary products Indonesia will need to supplement its local dairy supplies used in the program. In addition to tariff impediments, we note that there is a longstanding unfair trade barrier confronting companies seeking to register new U.S. dairy facilities to ship to the market: Indonesia's dairy facility registration system.

The overall value of the Indonesian dairy import market is estimated to be $1.5 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

Dairy Facility Registration Impediments

In order to export to Indonesia, dairy facilities are required to register with the government on an approved list. Wait times for clearing through the review and approval process have exceeded three years. Challenges include:

- Exactingly narrow deadlines in which companies have to make payments.
- Sporadic nature of the facility reviews that typically cover only a small subset of applications at a time.
- Multi-step evaluation process of facility registration reviews; it is virtually impossible for an applicant to be approved after the initial review step – 2 to 3 steps are virtually always required no matter how thorough the application is.

- Further bureaucratic steps related to the actual process of listing the facility follow the technical facility review stage and further delay the ability to ship product.

Recently, Indonesia has shown some encouraging signs of progress yet a full scale overhaul of this process remains essential. Notably, 9 facilities were reviewed in mid-February – this comprised all U.S. facilities with fully submitted applications. The results of this review are still not known however. Indonesia has also discussed a visit to the U.S. to learn about the overall U.S. dairy regulatory system. We urge the Administration to prioritize work with Indonesia to ensure this visit occurs, successfully recognizes the high caliber of the U.S. dairy regulatory system and establishes a systems recognition for the U.S. dairy industry that removes the need for facility by facility applications from U.S. exporters.

- **Japan**

The U.S.-Japan Phase One Agreement was a valuable agreement. That agreement made important progress in expanding market access for U.S. dairy products and has helped mitigate the risk of U.S. companies slipping behind as Japan implemented the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) and its FTA with the European Union. While the deal secured import tariff parity with the United States' major dairy competitors on various whey, select cheese, lactose, and other dairy HTS lines, remaining opportunities for further progress on the tariff front still exist particularly for milk powder, butter and additional cheeses. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Japan, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing additional tariff relief in this key dairy market.

The overall value of the Japanese dairy consumption market is estimated to be $5.3 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

- **Kenya**

The U.S. dairy industry supported past trade negotiations with Kenya and urges a resumption of them. Kenya is a high dairy consuming market and one with which the U.S. dairy industry is eager to partner in order to support further expansion in dairy consumption in a mutually beneficial manner. Doing so will require both tariff reductions (given high current tariffs on dairy) and addressing several unfair trade practices presently in place.

The overall value of the Kenyan dairy import market is estimated to be $12 million, indicating additional opportunities that exist in this market despite its sizable tariffs presently imposed on all trading partners.

Letter of No Objection to Import

Letter of No Objection to Import Permits are reviewed on a case-by-case basis by Kenya authorities. As part of that process, the Kenyan DVS requires importers to submit a "Letter of Application to Import" and specify the market need for the product. Applications for milk and dairy products must satisfy the requirement that the processing facility be approved by the "highest veterinary authorities of the country of origin". (Note that U.S. dairy facilities are overseen by FDA, not by USDA veterinary authorities.) Once an application is submitted, importers may only begin receiving the product if Kenya issues a no-objection letter. Although the Kenyan government claims applications to import are only rejected over sanitary concerns, importers have reported that the DVS has informally cited local availability of certain dairy products as grounds to reject an import application. To side step this unfair trade practice, a systems recognition of all U.S. dairy facilities is needed.

Certificate of Conformity

Further impeding ease of access for U.S. products into Kenya is a required Certificate of Conformity from a Kenya Bureau of Standards appointed "pre-export verification of conformity" partner and the obligation to obtain an Import Standards Mark (ISM) for certain sensitive imports including dairy. Imports entering Kenya without a Certificate of Conformity are subject to a destination inspection penalty fee of 15% of the customs value and only allowed entry into the market after completion of tests. This operates in practice as an unfair trade barrier.

Overly High Minimum Shelf-Life Requirements

Kenyan food imports are required to have a minimum of 75 percent shelf life remaining on the label. Given the perishable nature of some dairy products and long U.S. lead times for shipments, the regulation serves as a de facto prohibition of certain dairy product imports. Moreover, the shelf-life requirement is notably higher than is typical and certainly exceeds what is needed from a food safety perspective, constituting an unfair trade practice.

- **Malaysia**

Malaysia is a valuable trading partner and a very consistent market. U.S. dairy exporters benefit from the lack of unfair trade practices in Malaysia which has helped sales to this country to flourish. U.S. exporters do face certain tariff disadvantages in this market vs. the trade terms enjoyed by other suppliers from Oceania however due to trade agreements between those Parties. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Malaysia, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market. The overall value of the Malaysian dairy import market is estimated to be $1.3 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

- **Mexico**

NMPF and USDEC commend the Administration's Mar. 6 decision to suspend tariffs on most imports from Mexico for the time being. Looking forward, we encourage the Administration to utilize a tailored and thoughtful approach to dealing with the serious issues along the U.S.-Mexico border, proceeding in a way that avoids significant trade disruptions and the inevitable negative impacts on U.S. farmers that then follow.

Given the value of the Mexican market to the U.S. dairy industry, we appreciate the importance of the USMCA and wholeheartedly agree that all partners should operate in good faith under the agreement's rules.

Mexico is a critical trading partner for nearly every product that the U.S. dairy industry produces and exports. Of all U.S. dairy exports to the world, 36 percent of consumer dairy products (like cheese, butter and fluid milk) and 28 percent of total dairy ingredients (like whey protein, nonfat dry milk and whole milk powder) were shipped to Mexico last year. Nearly 40 percent of all U.S. cheese exports and over half of all nonfat dry milk exports are sent directly south to Mexico. Total U.S. dairy exports to Mexico are worth approximately $2.5 billion. This is out of a global total of $3.1 billion in dairy imports into Mexico, representing the sizable market share the U.S. enjoys in this important market. It is quite simply the United States' single most important dairy trading partner.

We share the administration's desire to improve on USMCA and are eager to work together to ensure that Mexico holds up their end of the bargain. In doing so, we need a scalpel, not a hammer, when it comes to such a great trading partner like Mexico. U.S. dairy producers rely on their Mexican consumers to grow and thrive. Our relationship with Mexico has been overwhelmingly positive, with local partners and industries willing to work with us to solve issues at the source. As the Administration formulates its strategy for moving forward with Mexico, we urge the use of approaches that avoid the imposition of any additional tariffs on food and agricultural trade with Mexico. Mexico has often selected dairy as a retaliatory target, which consistently has extremely harmful effects on U.S. dairy farmers given that the dairy products displaced cannot be readily absorbed into the U.S. market nor easily exported elsewhere to other markets. Past experience with retaliatory actions has also taught our industry that it's possible to lose valuable market share to other suppliers during such time periods, which can create longer lasting impacts even after tariffs return to normal levels.

The 2026 USMCA Review represents a critical opportunity to ensure that the agreement is operating as intended, and that U.S. dairy farmers and manufacturers can reap the full benefit of USMCA. Ahead of that stage, the U.S. dairy community looks forward to working closely with the Administration to ensure that our partners in Mexico address U.S. concerns.

- **Morocco**

Morocco is a valuable U.S. FTA partner and a relatively consistent market. There is one unfair trade practice posing a potential future barrier to U.S. dairy exports if not properly resolved, although to date Morocco has been a constructive trading partner and working with the U.S. to grant a delay in the implementation of that issue so that bilateral efforts to arrive at a solution can continue. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Morocco, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market and bringing closure to the lingering facility registration concern cited below.

The overall value of the Moroccan dairy import market is estimated to be $411 million, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

Facility Registration

Last year Morocco issued proposed regulatory changes that could upend U.S. dairy exports to the market if not resolved. The proposed regulation would do two things of primary concern:

- Require dairy exporters to register directly with Morocco's government or for the U.S. government to register facilities directly with Morocco's government.
- For the purpose of plant registration, require dairy facilities to present a Certificate of Conformance – issued by the exporting country's competent authority – attesting that the products are in compliance with Morocco food safety regulations.

We are eager to see a successful resolution of this issue in a manner that recognizes the overall U.S. dairy system rather than imposing the new requirements cited above.

- **Philippines**

  The Philippines is a valuable trading partner and a very consistent market. U.S. dairy exporters benefit from the present lack of unfair trade practices in Philippines which has helped sales to this country to flourish. We note the potential risk posed by the recently announced Philippine Pre-Shipment Inspection Process and urge the Administration to ensure that this is implemented in a manner that does not disrupt trade. As the Administration pursues this goal, we would like to underscore the very long and consistent track record of the Philippines as a dependable, relatively open market to U.S. agricultural products. Unlike other trading partners, the Philippines does not have a history of using regulatory measures to intentionally impede trade which should be an important factor in determining how the U.S. goes about resolving the present concerns posed by the proposed Pre-Shipment Inspection process.

  On the tariff front, U.S. exporters do face certain tariff disadvantages in this market vs. the trade terms enjoyed by other suppliers from Oceania however due to trade agreements between those Parties. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with the Philippines, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market.

  The overall value of the Philippine dairy import market is estimated to be $1.3 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

- **Saudi Arabia**

  Saudia Arabia is a valuable trading partner and a relatively consistent market. There is one unfair trade practice posing a potential future barrier to U.S. dairy exports if not properly resolved, but to date Saudi Arabia has been a constructive trading partner and working with the U.S. to grant a delay in the implementation of that issue so that bilateral efforts to arrive at a solution can continue. We welcome this. U.S. exporters do face certain tariff disadvantages in this market vs. the trade terms enjoyed by other suppliers from New Zealand due to its trade agreement with GCC countries. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Saudi Arabia, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market and bringing closure to the lingering facility registration concern cited below.

  The overall value of the Saudia Arabian dairy import market is estimated to be $1.9 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

  Facility Registration

  In 2022, Saudi Arabia WTO notified a process that establishes requirements related to pre-export approval for the export of animal origin products, including dairy. Saudi Arabia lists an overseas audit as part of the requirements, and it expects the interested establishments and countries to pay for travel expenses. The competent authority is asked to provide Saudi Arabia with a list of approved establishments meeting Saudi Arabian requirements. If implemented as proposed, this regulation would constitute an unfair trade barrier. However, to date Saudi Arabia has taken a more collaborative posture of allowing trade to continue while a bilateral solution is pursued and working with the U.S.

government to arrive at more workable trading conditions. We are eager to see a successful resolution of this issue in a manner that recognizes the overall U.S. dairy system and does not impose new burdens on U.S. exporters.

- **Taiwan**

  Taiwan is a valuable trading partner and a relatively consistent market. U.S. dairy exporters benefit from the lack of unfair trade practices in Taiwan which has helped sales to this country to flourish. U.S. exporters do face certain tariff disadvantages in this market vs. the trade terms enjoyed by other suppliers from New Zealand however due to trade agreements between those Parties. For instance, New Zealand supplies can ship extended shelf-life milk duty-free to Taiwan under the terms of that agreement while U.S. suppliers face a 15% tariff. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Taiwan, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market.

  The overall value of the Taiwanese dairy import market is estimated to be $809 million, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

- **Thailand**

  Thailand is a valuable trading partner and a very consistent market. U.S. dairy exporters benefit from the lack of unfair trade practices in Thailand which has helped sales to this country to flourish. U.S. exporters do face certain tariff disadvantages in this market vs. the trade terms enjoyed by other suppliers from Oceania however due to trade agreements between those Parties. In addition, the EU is in active trade negotiations with Thailand which could exacerbate tariff disparities facing U.S. exporters. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Thailand, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market.

  The overall value of Thailand's dairy import market is estimated to be $1 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

- **United Arab Emirates (UAE)**

  The UAE is a valuable trading partner and a very consistent market. U.S. dairy exporters benefit from the lack of unfair trade practices in the UAE which has helped sales to this country to flourish. U.S. exporters will begin to face certain tariff disadvantages in this market vs. the trade terms enjoyed by Australia however due to a new trade agreement that will implement this year. In addition, New Zealand has an FTA with the GCC countries which benefits its dairy exporters. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with the UAE, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market.

  The overall value of the UAE dairy import market is estimated to be $1.3 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

- **United Kingdom**

The U.S. dairy industry strongly supported the previous Trump Administration's launch of trade negotiations with the UK and urge the U.S. to resume pursuing a trade deal with this partner. Our industry was encouraged by the references to a bilateral arrangement following the recent meeting of President Trump and Prime Minister Starmer. U.S. dairy exports presently suffer from unfair tariff and nontariff barriers in seeking to access the UK market. These result in a non-reciprocal trade relationships between the U.S. and UK on dairy. These are primarily the result of the UK's inheritance of EU tariffs and regulatory barriers that were retained upon Brexit. Now is the time for reforms, however. The UK has always been a more reasonable and positive trading partner than the EU; we urge the Administration to build upon this through the coming economic and trade discussions with the UK to secure better terms of trade with this valuable partner.

The overall value of the UK dairy import market is estimated to be $5.7 billion, indicating the additional opportunities that exist in this market were trade constraints to be addressed.

Border Trade Operating Model Risk Ranking

In 2023 the United Kingdom created a new system for handling imports: the Border Trade Operating Model (BTOM). Under this system, new risk categories were introduced for trading partners' products that determine whether a certificate is needed and the frequency of border inspections. Regrettably, the UK has chosen to bestow "low risk" status on the vast majority of dairy imports from the EU, Canada and New Zealand while imposing a "medium risk" status on the vast majority of dairy imports from the U.S. The benefit of a low risk designation is that products no longer require a certificate to be imported. This discrepancy is clearly unfair as U.S. dairy products certainly achieve the same high levels of food safety as dairy products produced in those other countries. It is our understand that the higher risk ranking appears driven primarily by simple paperwork errors on certificates and not by any genuine food safety risks posed by the U.S. dairy products themselves. As such, this is an unfair trade practice that penalizes U.S. dairy exporters for minor certification paperwork errors while allowing Canadian, EU and New Zealand dairy exporters to bypass the risk of this entirely by alleviating them from the obligation to submit certificates.

Non-Reciprocal Dairy TRQ Treatment

UK dairy producers benefit from UK-specific dairy tariff-rate quotas (TRQs) for exporting to the U.S. market. On the other hand, there are no U.S.-specific dairy TRQs for access to the UK market. This non-reciprocal treatment should be addressed and improved market access created for U.S. dairy exporters to the UK.

- **Vietnam**

Vietnam is a valuable trading partner and a very consistent market. U.S. dairy exporters benefit from the lack of unfair trade practices in Vietnam which has helped sales to this country to flourish. U.S. exporters do face certain tariff disadvantages in this market vs. the trade terms enjoyed by other suppliers from Oceania and the EU however due to trade agreements between those Parties. As the U.S. evaluates opportunities for creating a more reciprocal trading relationship with Vietnam, we urge the Administration to pursue greater market access opportunities for U.S. dairy exporters by securing tariff relief in this dairy market.

The overall value of the Vietnamese dairy import market is estimated to be $848 million, indicating the additional opportunities that exist in this market were trade constraints to be addressed.