

Briefing Paper: Canada

Dairy Issues State of Play Summary



NMPF and USDEC's priorities regarding Canada's implementation of USMCA dairy provisions are two-fold:

1. Continued engagement with USDA, USTR, and Congress to find avenues to strengthen market access in Canada, in light of the U.S.-Mexico-Canada Agreement (USMCA) November 2023 dispute panel ruling that allowed Canada to continue to restrict market access for U.S. dairy exporters.
2. Prevent Canada from circumventing USMCA dairy export caps and offloading protein in quantities that distort international markets.



DAIRY TARIFF RATE QUOTAS (TRQS)

Canada's administration of its dairy tariff-rate quotas unfairly restricts market access for U.S. dairy exporters. As USTR outlined so clearly in the USMCA dairy TRQ case, Canada's administration of its dairy TRQs is in direct opposition to negotiators' intention to expand dairy market access.

One of the most obvious problems is Canada's decision to limit the allocation of the vast majority of each TRQ to only Canadian processors, while drastically limiting access for importers and completely excluding retailers and food service companies from accessing the TRQs.

We were deeply disappointed by the USMCA dispute panel's November 2023 decision to allow Canada to continue to restrict market access to U.S. dairy exporters and believe it fails to deliver on USMCA's negotiated intention.

USDEC and NMPF are continuing to work with USDA, USTR and Congress to ensure that the January 2022 dispute panel ruling in the United States' favor is fully implemented and to think creatively about finding avenues to strengthen market access.

PROTEIN EXPORT LOOPHOLES

In order to curb the harmful impact that Canadian dairy policies, which offloaded excessive quantities of dairy protein onto global markets at artificially low prices, were having on U.S. prices and exports, USMCA created 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 and infant formula.

To date, Canada appears to be circumventing the dairy protein export caps through shifting production to different tariff codes

This practice undermines USMCA's intention to discipline Canada's ability to unfairly offload excessive quantities of dairy protein products into global markets. The U.S. must take steps with Canada to close these loopholes to ensure Canada is upholding the spirit of the USMCA agreement.

