



## **Dairy Producers for Fair Trade**

C/O National Milk Producers Federation  
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June 6, 2002

The Honorable Philip Crane, Chairman  
Subcommittee on Trade  
Committee on Ways and Means  
US House of Representatives  
Washington, DC 20515

Dear Chairman Crane:

We are writing to recommend passage of H.R. 1786, legislation that would impose tariffs on imports of Milk Protein Concentrate (MPC) and casein.

Dairy Producers for Fair Trade is a coalition of farm organizations led by the National Milk Producers Federation. NMPF develops and carries out policies that advance the well-being of U.S. dairy producers and the cooperatives they collectively own. Cooperatives handle approximately 85% of the U.S. milk supply. Farmer-owned dairy coops also manufacture 61% of the butter, 76% of nonfat dry milk, and 40% of the natural cheese, marketed in the United States.

Dairy Producers for Fair Trade consists of the following organizations working with NMPF to support not only H.R. 1786, but also to achieve future balanced trade agreements: American Farm Bureau Federation, National Council of Farmer Cooperatives, National Farmers Organization, National Grange, Alabama Farmers Federation, The Alliance of Western Milk Producers, Conesus Milk Producers Coop., Dairy Producers of New Mexico, Family Dairies USA, Idaho Dairymen's Association, Kansas Dairy Association, Maryland Dairy Industry Association, Midwest Dairy Coalition, Milk Producers Association of North Dakota, Milk Producers Council, Minnesota Milk Producers Association, Missouri Dairy Association, National All Jersey Inc., Northwest Milk Producers Association, Oregon Dairy Producers Association, Pennsylvania Dairymen's Association, Southeast Dairy Farmers Association, Texas Association of Dairymen, USA Holstein Association, Utah Dairymen's Association, Virginia State Dairymen's Association, Washington State Dairy Federation, Western States Dairy Trade Association, and the Western United Dairymen.

This issue is of the utmost importance to America's 75,000 dairy farm families, because the price that farmers receive from the market has been depressed by a surge of imported

dairy proteins – primarily MPC and casein – that are displacing domestically-produced dairy proteins in a variety of end uses, such as cheese. Foreign exporters, through the circumvention of U.S. trade regulations and the heavy use of subsidies, have taken advantage of poorly-negotiated trade agreements. This situation can only be corrected through the passage of this legislation by Congress.

*Milk Protein Concentrate* is the product of a technology known as ultrafiltration. During the ultrafiltration process, nonfat milk is passed through membranes designed to separate out most of the water, lactose and other solids, leaving behind a product consisting of mostly protein known as retentate. In most cases, the retentate is subsequently dried for further distribution and/or storage.

*Casein* is the primary form of dairy protein in milk. It is produced either by filtration through specialized membranes, or through acid precipitation from milk. It is usually converted to its salt form, caseinate, and dried.

#### The Use Of These Products

Milk protein concentrate can be used as part of the cheese starter culture which, when mixed with milk, causes cheese curds to begin coagulating in the vats where cheese is made. It is not legal to use MPC as an ingredient beyond the starter culture in cheeses for which the Food and Drug Administration has established a standard of identity (e.g. cheddar, Swiss, mozzarella). However, many other cheese varieties don't have a standard of identity (e.g. brie, ricotta, pizza cheese), and MPC is allowed to be extensively used in the manufacture of these products.

In addition to their use in cheese, milk protein concentrate and casein are also used as ingredients in prepared food applications such as desserts, baked goods, toppings, lowfat spreads, dairy-based dry mixes, dairy-based beverages, sports-nutrition beverages and foods, and weight-loss beverages and foods. Casein also has some non-food industrial uses.

#### Why These Imports Have Become A Problem

When the U.S. established its current restrictions for imported dairy products, prior to the negotiations for the General Agreement on Tariffs and Trade (GATT) in 1994, the technology to both produce and use concentrated milk proteins was in its infancy and not widely used. Under GATT, the U.S. established Tariff Rate Quotas (TRQs) for dairy products, such as cheese, butter and nonfat dry milk, which had previously been under Section 22 Quotas, because large amounts of imports would have interfered with the dairy price support program. Since MPC imports had not been of any magnitude prior to 1994, the U.S. government created no restrictions for MPC.

Thus, MPC enters with a very small duty of \$0.0037 per kilogram (\$0.0017 per pound) and no quotas are applied. Only the demands of the marketplace limit the quantity imported. *In essence, a loophole in our trade laws was created, allowing exporters to enter the U.S. market with a new product not accounted for by current trade law.*

As a result, seven years after the implementation of the 1994 GATT agreement, MPC imports have grown dramatically. During the four-year period of 1994-1997, MPC imports averaged 42 million pounds per year. During the subsequent four-year period, 1998-2001, MPC imports averaged 107 million pounds per year, hitting a high of 143 million pounds in 2000. The amount of this MPC in the year 2000 is equivalent to about 276 million pounds of nonfat dry milk (NDM), and equivalent to an average of 210 million pounds during the four years between 1998 and 2001. The net economic affect of this enormous surge in dairy protein imports has been to depress U.S. farm prices by more than \$1 billion during the period between 1994 and 2001.

With respect to casein and caseinates, 10 to 15 years ago these products were primarily used in industrial manufacturing of glues and fabrics, and thus did not compete with nonfat dry milk production in this country. However, more recently, most casein products are interfering with domestic sales of milk proteins for use in human and animal feed. In addition, the production and export of casein products are heavily subsidized, either directly or indirectly, by most exporting nations.

One of the curious facts about the international trade in milk protein products is that the U.S. is by far the largest target for these dairy proteins. As an example, New Zealand targets 56% of their dairy protein exports to the U.S., even though other countries including the E.U., Japan, Canada and South Korea enjoy healthy markets with milk prices higher than in the United States. Why is the U.S. the largest target for these products given the proportionately huge markets in other countries? Basically, it is because U.S. trade laws weren't designed to account for imports of MPC, unlike other countries. As a result, we have allowed our market to be exploited by other countries, some of which are engaged in unfair practices to gain access.

#### How U.S. Farmers Are Detrimentially Affected By MPC and Casein Imports

The growing volume of imported MPC and casein is displacing nonfat dry milk (NDM) powder produced by U.S. farmers in such uses as cheese, dairy foods, and other nutritional products. NMPF calculates that since 1994 (when the GATT agreement was signed), cumulative U.S. dairy farm income has been reduced by \$1.12 billion. This takes into account how these added imports have negatively affected supply and demand in the U.S. dairy sector.

Nonfat dry milk displaced by imported dairy proteins such as casein and MPC is often then bought by the government through the USDA dairy price support program, leading to increased costs for taxpayers. NMPF calculate that MPC imports alone have cost the government's Commodity Credit Corporation (CCC) program a cumulative total of \$890

million since 1994. Clearly, MPC and casein both have been a lose-lose economic proposition for both dairy farmers and U.S. taxpayers.

Because of the recent added financial pressure on the USDA's CCC price support program due to increased dairy imports, the USDA decided one year ago to reduce the support price level for nonfat dry milk, from \$1.00 per pound to \$0.90/lb. This action was intended to reduce USDA NDM purchases – purchases largely resulting from the displacement of domestic dairy proteins by imports. Unfortunately, the USDA's action also reduced dairy farmer income by providing a smaller economic safety net. Since the USDA price support adjustment in May of 2001, U.S. dairy farm income dropped by \$493 million, due to a lower value for nonfat dry milk. USDA administrators of the price support program are contemplating another downward adjustment of the purchase price for NDM, which would cut farmer revenue even more.

#### What H.R. 1786 Would Do

H.R. 1786 would simply apply the same tariff-rate quotas currently assessed on related dairy products (cheese, skim milk powder) to MPC and casein used in the food and animal feed industries (casein used for industrial purposes would not be subject to the new tariffs). Thus, the current duty of \$0.0037 per kilogram (\$0.0017 per lb.) would rise to \$1.56 per kilogram (\$0.71 per lb.) for MPC with up to 90% protein, and to \$2.16 per kilogram (\$0.98 per lb.) for MPC with protein levels greater than 90%. Casein and casein products would also be assessed duty at a rate of \$2.16 per kilogram.

#### How This Legislation Affects U.S. WTO Commitments

The authority that would be granted to the President under these bills to renegotiate tariff concessions and provide trade compensation as necessary would ensure that the U.S. could fix the loophole in a WTO-consistent manner. Indeed, nothing prevents a WTO member from renegotiating its tariff concessions under Article XXVIII of the GATT (1994). Twelve renegotiations of tariff concessions under Article XXVIII have been launched since the WTO agreement became effective in 1995, most of them concerning agricultural products. No WTO member country has ever retaliated against another WTO member that raised a tariff under the GATT agreement.

#### How U.S. MPC and Casein Users Will Be Affected

In 1997, MPC imports amounted to approximately 37.4 million lbs. The legislation allows nearly 35.2 million lbs. of the product to come into our market practically free of duties. U.S. food manufacturers will therefore still have access to a significant supply of MPC, plus large quantities of domestically-produced skim milk powder as U.S. production rises to supply the added demand. The legislation merely places a ceiling on the total volume of MPC allowed into our market. Likewise, H.R. 1786 will still allow

substantial amounts of casein (119 million lbs.) into the U.S. market. In fact, the legislation permits the free entry of casein for industrial purposes, while imposing tariffs only on casein for food manufacturing or animal feed.

In addition, we expect that the U.S. will pay compensation to major MPC and casein exporters in the form of additional access for these products. This would allow more of these products into the U.S., even while it levels the playing field with other WTO members so that unlimited quantities can no longer flood the U.S. market.

## Summary

In summary, Congress needs to pass H.R. 1786 to correct a gaping loophole in our trade laws that is being exploited by importers of casein and Milk Protein Concentrate. The fact that the U.S. maintains tariffs on certain imported dairy products, such as nonfat dry milk powder and cheese, while imposing essentially none on casein and MPC, is an oversight – and a costly one at that. There are many instances in a variety of sectors where technology has surpassed the legislative and regulatory framework designed to regulate that technology. The manufacture of MPC, and the ability of domestic dairy processors to use MPC and casein, is another example of this phenomenon.

As evidenced by the structure of the Harmonized Tariff Schedule governing dairy imports into the U.S., our legislators clearly intended to provide certain assurances to America's dairy farmers that a level playing field between them and other dairy exporting nations would be established by Congress. That playing field has been upended by the growing international trade in dairy proteins – many of which are coming primarily into this country. H.R. 1786 would not end this trade, merely provide a reasonable ceiling so that those nations which traffic in MPC and casein cannot exploit U.S. markets with absolutely no limits.

Thank you for your consideration of this matter.

Yours truly,



Jerry Kozak  
President and CEO  
National Milk Producers Federation

Addendum

Member Organizations in  
Dairy Producers for Fair Trade

American Farm Bureau Federation  
National Council of Farmer Cooperatives  
National Farmers Organization  
National Grange  
National Milk Producers Federation

Alabama Farmers Federation  
The Alliance of Western Milk Producers  
Conesus Milk Producers Coop.  
Dairy Producers of New Mexico  
Family Dairies USA  
Idaho Dairywomen's Association  
Kansas Dairy Association  
Maryland Dairy Industry Association  
Midwest Dairy Coalition  
Milk Producers Association of North Dakota  
Milk Producers Council  
Minnesota Milk Producers Association  
Missouri Dairy Association  
National All Jersey Inc.  
Northwest Milk Producers Association  
Oregon Dairy Producers Association  
Pennsylvania Dairywomen's Association  
Southeast Dairy Farmers Association  
Texas Association of Dairywomen  
USA Holstein Association  
Utah Dairywomen's Association  
Virginia State Dairywomen's Association  
Washington State Dairy Federation  
Western States Dairy Trade Association  
Western United Dairywomen