

Intent to Testify:

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The following testimony addresses the proposed U.S.- Central America Free Trade Agreement and the potential withdrawal of tariff concessions and increase in applied duties in response to the European Union (EU) Enlargement and the EU's changes to its rice import regime. Peter Vitaliano will testify for the National Milk Producers Federation at the September 24, 2004 hearing concerning this issue.

**BEFORE THE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
TRADE POLICY STAFF COMMITTEE**

Regarding: Potential Withdrawal of Tariff Concessions and Increase in Applied Duties in Response to European Union (EU) Enlargement and EU Changes to its Rice Import Regime

**Testimony
Of
Peter Vitaliano**

**On Behalf of
The National Milk Producers Federation**

Mr. Chairman and members of the committee, my name is Peter Vitaliano, and I am the Vice President of Economic Policy and Market Research for the National Milk Producers Federation (NMPF). I am pleased to appear before you today with Shawna Morris, Trade Policy Coordinator for NMPF, to provide comments in response to the Office of the U.S. Trade Representative's "Request for Comments and Notice of Public Hearing on Potential Withdrawal of Tariff Concessions and Increase in Applied Duties in Response to European Union Enlargement and EU Changes in its Rice Import Regime". [69 Fed. Reg. 54827-39 (September 10, 2004.)]

NMPF represents America's dairy producers. The U.S. dairy industry is the second largest agricultural commodity sector in the United States, measured by farm cash receipts. There are 70,000 dairy producers in the U.S. and dairy farms in every state, from Vermont to California, Oregon to Florida plus Alaska and Hawaii. Dairy is one of the top three agricultural sectors in fully half of the states, and internationally, the U.S. is the world's largest single-country producer of cow's milk.

We appreciate the opportunity to provide views on the list of dairy-related items proposed for withdrawal of concessions to the EU and contained in the Annex to the Federal Register notice. Our principal objective is to urge USTR to maintain those products currently listed, as well as to advocate for the inclusion of additional dairy-related products to the record. The descriptions and tariff numbers of these items are provided in the attachment to this submission.

The first attached list (List A) contains 47 items that are currently on USTR's proposed list which are either dairy products or products for which a significant proportion of the value consists of dairy components or constituents. The total value of imports of these products from the European Union-25 has averaged about \$32 million per year during calendar years 2001-2003. In terms of the distribution of values among these items, only six out of the 47 have an average individual value of imports into the United States during those same three years above \$366,000 per year. Furthermore, the three-year average U.S. import value from the EU-25 is below \$100,000 per year for 36

of the 47. For 17 of these 47 the average value is less than \$10,000 per year, and for six of them, there have been no imports into the U.S. from the EU-25 during the past three calendar years.

The items in the second group (List B) are eight products for which the EU maintains a 90 percent or greater share of the U.S. MFN market, measured on a volume basis. The withdrawal of concessions and the increase of tariffs on these products would not present significant difficulties for the U.S with respect to its MFN obligations under GATT Articles XXIV and XXVIII, but their inclusion would serve to elevate the importance to the EU of the threatened retaliation in the dairy sector.

The third list (List C) includes twelve additional items our industry urges be included, even though the EU's share does not meet the 90 percent threshold, or one or more third-country suppliers has a greater than 10 percent share. We recognize that the inclusion of such products may complicate the process of balancing concessions to affected non-EU suppliers. However, we believe that the need to maximize leverage with respect to negotiations with the EU on both the rice matter and the enlargement negotiations warrants consideration of these products. NMPF would be willing to consider compensation in the dairy sector to those third-country suppliers to re-establish our balance of concessions with those countries.

In seeking the inclusion of the products on lists B and C, we are also attempting to address a significant problem that often arises for U.S. negotiators in their efforts to respond to foreign actions that require retaliation on an MFN basis. That problem is that the products chosen must be supplied almost exclusively by the offending country and the exercise, therefore, becomes mainly mathematical. In reestablishing the balance of concessions, it is also extremely important to take into account the political and economic significance of the products in question. The loss of the tariff concession in the EU for U.S. rice, for example, must not be offset by the withdrawal of tariff concessions on a long list of relatively insignificant products that are not as politically or economically meaningful to the EU as rice is to the U.S.

While we do not applaud the EU's decision to increase rice tariffs, we feel that this has served as a useful reminder of the rights that Article 28 provides to all WTO members. Although all countries hope that it is not frequently employed, the option to raise tariffs under this clause is an important part of the balance of rights and obligations in the WTO. Its existence has allowed countries to retain key sovereignty rights and to more freely participate in negotiations, knowing that they have a way to remedy matters should WTO commitments result in particularly detrimental and unforeseen consequences.

NMPF fully supports USTR's efforts in assembling a retaliation list of products in response to the EU's decision to exercise its Article 28 GATT right to raise tariffs. But we are very aware that ultimately the hope for those involved in Article 28 cases is that an agreeable arrangement will be achieved through negotiations. As you are well aware, U.S. dairy producers are facing a difficult and related circumstance as they contend with

imported casein and milk protein concentrates (MPC). These products are unfairly benefiting from a loophole in our tariff system that is allowing imported casein and MPC to circumvent legitimate tariff commitments under the Uruguay Round. NMPF urges this Administration to exercise our Article 28 right to rectify this situation by establishing a tariff-rate quota (TRQ) to limit imports of these products. Unlike the EU, we are prepared to immediately engage in negotiation and provide the right compensation to the affected parties, following the creation of TRQs for MPC and casein.

The National Milk Producers Federation urges the United States government to take into account all these factors in deciding on which products it will increase U.S. tariffs, and we thank the Office of the U.S. Trade Representative for the opportunity to submit our concerns.