



International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association

20 June 2012

The Honorable Kevin Brady
Subcommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady,

The International Dairy Foods Association (IDFA), Washington, DC, represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 550 companies representing a \$110-billion a year industry. IDFA's 220 dairy processing members run more than 600 plant operations, and range from large multi-national organizations to single-plant companies. Together they represent more than 85% of the milk, cultured products, cheese and frozen desserts produced and marketed in the United States. IDFA strongly opposes H.R. 2813. This controversial legislation attempts to impose tariff-rate quotas (TRQs) on imported milk protein concentrate (MPC), casein and caseinates, which would lead to increased regulation and costs on a wide range of specialized consumer products.

H.R. 2813 is Highly Controversial and Contrary to the Purpose of the Bill

IDFA urges you to reject the inclusion of H.R. 2813 in this year's miscellaneous tariff bill. Under the Ways and Means Committee guidance on the bill, this trade vehicle is explicitly reserved for non-controversial bills which contain or impose new duty suspensions on needed inputs not produced in the U.S. In the case of H.R. 2813, the economic and policy issues are highly divisive and strongly contended. Similar efforts to establish such TRQs have been pursued on several occasions in the past, and were met with strong resistance from domestic manufactures and our trade partners. Furthermore, the enactment of H.R. 2813 would create a regressive food tax, and would be a violation of World Trade Organization (WTO) rules and U.S. international trade obligations. Inclusion of H.R. 2813 would be completely contrary to the primary purpose of the bill; to help U.S. manufacturers compete at home and abroad by temporarily suspending or reducing duties on intermediate products or materials that are not made domestically. Therefore, we urge the Subcommittee on Trade to not include H.R. 2813 in the miscellaneous tariff bill.

MPC, casein and caseinates are technologically sophisticated ingredients that are tailored to meet manufacturers' requirements. Unlike nonfat dry milk (NFDM) which contains

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lactose and low and varying levels of protein, MPC, casein and caseinate can be used in a wide range of specialized products to meet the market demand for products that contain little or no lactose, and have high and consistent levels of protein. MPC, casein and caseinates are not interchangeable with NFD; they are different products, with distinct characteristics and unique applications.

Currently, these proteins enter the U.S. with minimal duties and are important ingredients in a variety of popular consumer goods and specialty foods that Americans enjoy every day. These include: processed cheese products, coffee creamers, convenience foods, frozen dinners, geriatric drinks, hypoallergenic infant formulas, sports bars, weight-loss beverages and nutritional drinks. These proteins are also used in many specialized medical, pharmaceutical, and cosmetic products, as well as animal feed and industrial applications. Adding new tariff barriers would increase costs to U.S. users of these dairy ingredients. With the domestic market for these proteins larger than current domestic production, manufacturers would have no choice but to import the ingredients, pay the higher price, and pass the increased cost onto consumers.

This issue of raising tariffs on milk protein ingredients has been before Congress for many years and has caused heated debates on Capitol Hill. To obtain an independent analysis of the situation, the Senate Finance Chairman requested an International Trade Commission (ITC) investigation into the economics of imported milk proteins over the period of 1998 to 2002. In May 2004, the ITC released a report on its year-long research. This document was the most exhaustive, authoritative and objective study of the matter and sets forth no basis for new tariffs on imported dairy proteins.

There is no U.S. Trade Law "Loophole" – H.R. 2813 is Not a Valid Technical Correction

TRQ supporters argue that imports of milk protein are circumventing U.S. trade laws by entering through a "loophole" in the U.S. tariff schedule. However, the ITC specifically refuted the "loophole" argument noting that both Congress and the President had carefully considered the tariff treatment of casein, caseinates and MPCs. Imports of these products have never been subject to Section 22 quotas following formal investigations. In 1984, long before the Uruguay Round negotiations, Congress created specific tariff lines to account for MPCs, that were not subject to quota. Additionally, in 2003, U.S. Customs found that imported MPCs, casein and caseinates did not circumvent nonfat dry milk TRQs, and were correctly classified under non-quota provisions. Therefore, H.R. 2813 clearly does not provide a valid technical correction.

H.R. 2813 is a blatantly Protectionist Bill That Violates U.S. Trade Commitments

Increasing tariffs on MPC, casein and caseinates would violate our WTO obligations and the U.S. Free Trade Agreements. In these trade pacts, the U.S. has agreed to maintain a certain level of duties. If the U.S. unilaterally decides to raise its bound tariffs, countries

supplying these dairy proteins to the U.S. market must be compensated or they have the right to retaliate by imposing trade sanctions on U.S. exports.

In addition to the economic effects of compensation and/or retaliation, the U.S. would lose its credibility to negotiate reduced trade barriers. Dairy exports have grown into a vitally important aspect of the U.S. dairy industry. In 2011, the U.S. exported a record \$3.93 billion worth of dairy products around the world. The U.S. now steadily achieves a growing dairy trade surplus, a clear departure from a decade ago when the U.S. dairy industry historically ran a trade deficit. In 2009, the Innovation Center for U.S. Dairy, funded by dairy producers, commissioned a study by Bain & Co. which found that international demand for dairy products will grow faster than the available world milk supply creating major export growth opportunities for the U.S. dairy industry. The study recommended that the dairy industry become a “consistent exporter” and explicitly warned against the use of additional tariff and non-tariff barriers to overcome perceived foreign competition.

Milk Protein Imports Do Not Significantly Affect Domestic Milk Prices

Proponents of the TRQ argue that U.S. imports of MPC, casein and caseinates depress milk prices. However, the 2004 ITC report found that there was no direct relationship between imports of milk proteins and farm milk prices over the study period. The report stated that “[t]he data do not show a clear and direct relationship between imports of milk protein products and the all-milk price in all years.” The report also noted that the ITC reviewed a broad range of studies by prominent dairy economists and, “[e]ven though these studies differed in terms of modeling approaches, commodity coverage, and base year, they generally found that imports of milk protein products have had little impact on farm-level prices in the U.S. market.”

In sum, there are many substantive reasons to reject H.R. 2813. First and foremost, H.R. 2813 does not meet the requirements of the Ways and Means Committee guidance for inclusion in the miscellaneous tariff bill, and is completely contrary to its purpose. The bill is a poster child for trade protectionism; would create additional unnecessary government regulation, is anti-consumer; violates U.S. trade agreements; is damaging to U.S. trade objectives; and is contrary to the dairy industry’s objective of becoming a consistent exporter. For all these reasons we urge the Trade Subcommittee to omit H.R. 2813 from the miscellaneous tariff bill.

Sincerely,



Clay Hough
Senior Group Vice President & General Counsel
International Dairy Foods Association