



U.S. DAIRY
EXPORT COUNCIL



October 31, 2024

CUSMA Consultations
Global Affairs Canada
Trade Negotiations – North America (TNP)
John G. Diefenbaker Building
111 Sussex Drive
Ottawa Ontario
K1N 1J1

Dear Sirs/Madams,

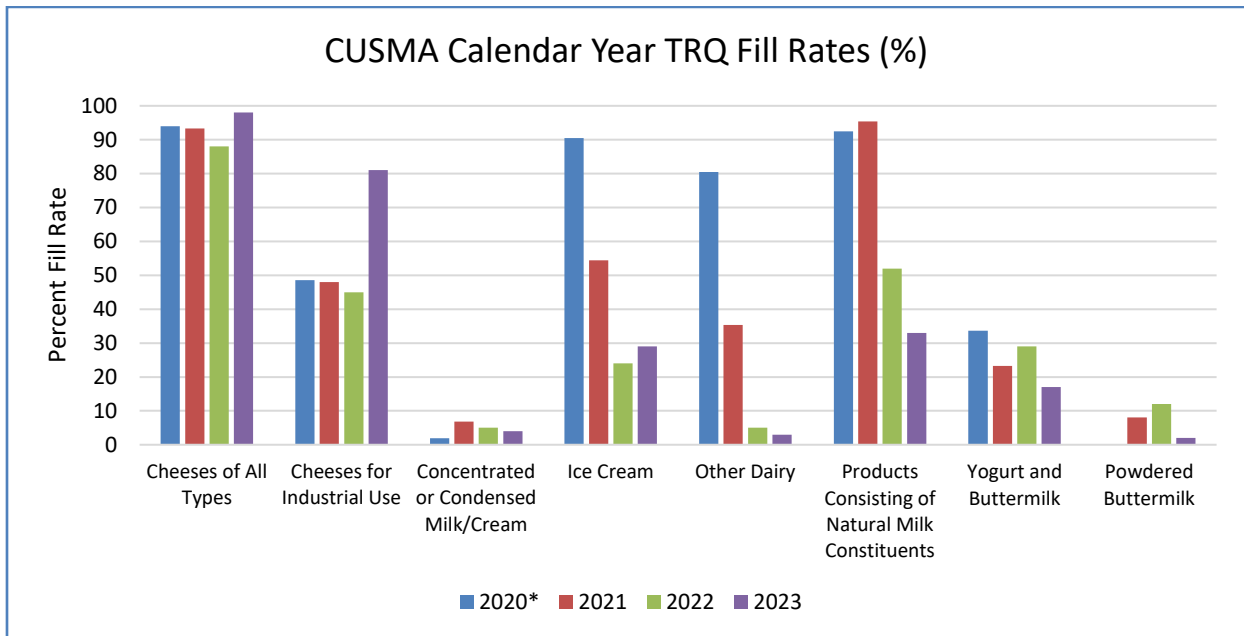
The National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC) appreciate the opportunity to provide our views on the operation of the Canada-United States-Mexico Agreement (CUSMA) in response to the August 17, 2024, Canada Gazette notice of Global Affairs Canada. Our comments will focus on the operation of CUSMA's dairy tariff rate quotas (TRQs) and the increasing use by Canadian exporters of different tariff codes to evade CUSMA export disciplines.

NMPF is the United States' national farm commodity organization that represents dairy farmers and the dairy cooperative marketing associations they own and operate throughout the United States. USDEC is a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, proprietary processors, dairy cooperatives, and export traders.

Dairy TRQ Allocation and Administration

Canada's flawed administration of its dairy TRQs continues to result in low fill rates in most categories. The charts below demonstrate the CUSMA dairy quota fill rates, most of which remain perennially underfilled.

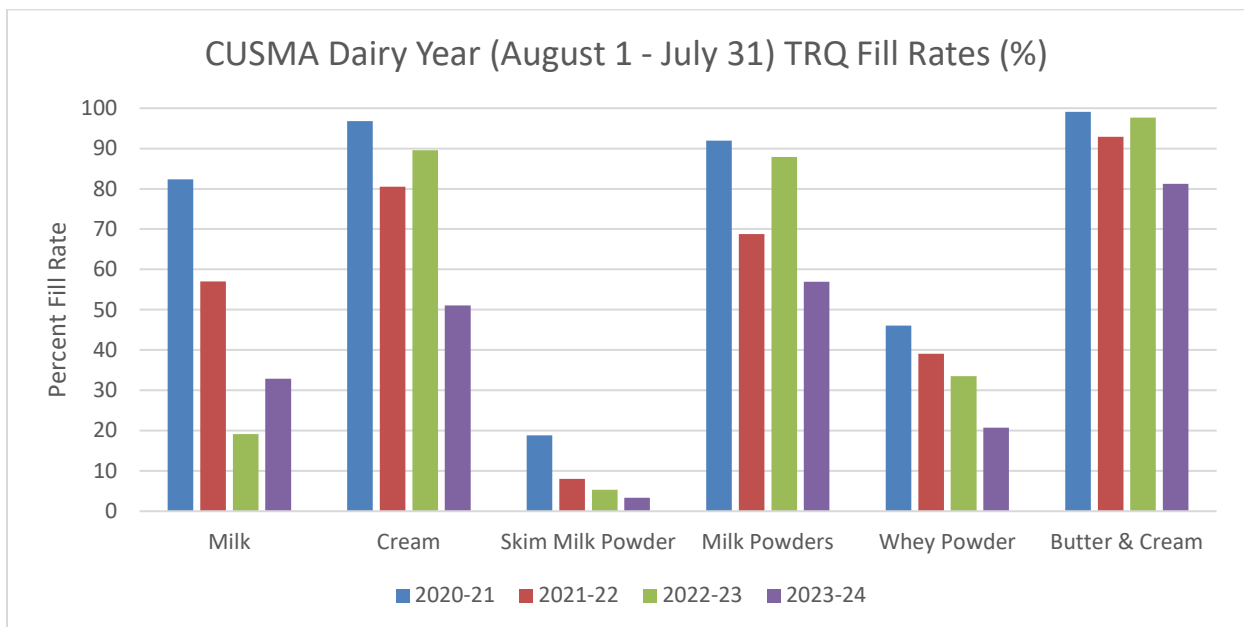
Figure 1: CUSMA Calendar Year TRQ Fill Rates



*July-December 2020

Source: Global Affairs Canada

Figure 2: CUSMA Dairy Year TRQ Fill Rates



Source: Global Affairs Canada

Canada's policies of reserving large shares of the quotas for processors, administrative procedures that are not fair and equitable, and providing no access at all to retailers are among the reasons that CUSMA is failing to deliver the dairy market access benefits the United States negotiated for and expected. Notwithstanding CUSMA's requirement to grant TRQ access to those active in Canada's food and agriculture sector, Canada has excluded retailers and food service operators by limiting that access to processors and distributors. Further, Canada's allocation methodologies continue to ensure that quotas are overwhelmingly allocated to processors despite CUSMA's clear intention to avoid this outcome. And Canada's lax return and penalty terms are driving down fill rates.

We urge Canada to consider its larger interest in the success of the CUSMA and modify its dairy TRQ allocation and administration policies to give effect, in good faith, to Canada's CUSMA commitments. Canada should not wait for the 2026 review to reform its TRQ allocation and administration policies; doing so now will help to ensure a smooth review process in 2026 and affirm Canada's commitment to the success of CUSMA.

Evasion of CUSMA Export Threshold Commitments

CUSMA's export threshold commitments for skim milk powder (SMP), milk protein concentrates (MPC) and infant formula are a critical pillar of CUSMA disciplines designed to ensure that the market-distorting impacts of Canada's supply management system are not exported to the United States and third-country markets. While the thresholds established in CUSMA Article 3.A.3 have proven effective in limiting direct exports of the tariff lines for SMP, MPC and infant formula specifically listed in CUSMA, exports of other derivatives of skim milk through other tariff lines have grown at an alarming rate.

For instance, Canada's exports to the United States of Peptones and Other Protein Substances (HTS 3504.00) have experienced a steep increase since CUSMA went into effect, undermining the CUSMA export disciplines on MPC. This escalating trend of milk protein export loophole growth threatens to render CUSMA export disciplines a hollow formality.

Such loopholes must be closed for CUSMA to operate as intended. We urge Canada to take steps to rein in such exports now if the 2026 review is to prove successful.

Again, thank you for the opportunity to provide comments through this consultation process. We remain prepared to consult further with Global Affairs Canada on these matters.

Sincerely,



Shawna Morris
Executive Vice President
Trade Policy & Global Affairs
National Milk Producers Federation &
U.S. Dairy Export Council