

March 11, 2010

The Honorable Ron Kirk
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Kirk,

We understand that the first meeting of the Trans-Pacific Partnership (TPP) Agreement will be held later this month. We write to urge very careful attention to dairy trade concerns in these negotiations.

As you prepare for these negotiations, we wanted to highlight the potential impact of such an agreement on dairy farmers and many processors in the U.S. if U.S.-New Zealand dairy trade is not addressed properly. We have been informed that losses to U.S. dairy producers may total up to \$20 billion over the first decade of the agreement if U.S. dairy restrictions on exports from New Zealand are fully phased out in the TPP. Moreover, America's dairy exporters do not have the prospect of focusing on other significant new opportunities that the agreement would open up given that most other TPP participants are already U.S. free trade agreement (FTA) partners or have relatively limited tariffs and offer only small additional market opportunities.

Despite New Zealand's small size, its dairy industry is a global power. New Zealand's dairy industry is dominated by one company that operates as a virtual monopoly in controlling more than 90 percent of the country's milk production and approximately 40 percent of trade in key internationally traded dairy commodities. In light of this market power, the Administration should consider whether genuine competition is possible as it proceeds with the TPP.

New Zealand has demonstrated its capacity to funnel product to the U.S. market as evidenced by the sizable quantities of milk protein concentrates (MPCs) and casein imported each year into the U.S. from New Zealand. MPC and casein imports enter the U.S. virtually tariff-free and with no volume quotas unlike imported nonfat dry milk, butterfat or most cheeses. The primacy that New Zealand assigns the U.S. market and its ability to devote considerable amounts of its production to exports to the U.S. are clear.

According to testimony submitted recently to the International Trade Commission, imports of New Zealand dairy products facing tariff-rate quota limitations generally account for a relatively small proportion of New Zealand's total exports of such products. In contrast, New Zealand's sales of MPC and casein imports to

the U.S. market generally account for over fifty percent of its exports of these products to all destinations. Clearly, New Zealand has taken full advantage of all favorable opportunities to grow its dairy exports to the high-value United States market and would likely do so with respect to any additional such opportunities for the even higher-valued, currently tariff rate quota (TRQ)-restricted products if trade in them is expanded under the TPP.

Because of the anti-competitive practices in New Zealand's dairy industry and the extensive degree of control it wields over world dairy markets to the detriment of the U.S. dairy industry, we are deeply concerned that an expansion of U.S.-New Zealand dairy trade would further open the U.S. to these imports while providing little additional market for American farmers in New Zealand and the other Pacific countries. This prospect is particularly troubling given the record low dairy prices American farmers have faced since late 2008 and the need for our dairy industry to rebuild export markets to help remedy the harm caused by these low prices. As you proceed with negotiations, we ask that you carefully consider and discuss with us how best to address within the TPP this unique threat posing such great potential harm to the future viability of America's dairy industry.

Sincerely,

Senator Feingold
Senator Crapo
Senator Specter
Senator Bennet
Senator Bingaman
Senator Sherrod Brown
Senator Burris
Senator Cantwell
Senator Casey
Senator Collins
Senator Feinstein
Senator Franken
Senator Gillibrand
Senator Kerry
Senator Klobuchar
Senator Kohl
Senator Leahy
Senator Levin
Senator McCaskill
Senator Merkley
Senator Murray
Senator Risch

Senator Sanders
Senator Schumer
Senator Shaheen
Senator Snowe
Senator Stabenow
Senator Mark Udall
Senator Tom Udall
Senator Wyden