



Office of the U.S. Trade Representative
600 17th Street Northwest
Washington, D.C. 20508

Re: Federal Register Notice USTR-2024-0002, submitted via *Regulations.gov*

April 22, 2024

To Whom It May Concern:

As you may know, the International Dairy Foods Association (IDFA) represents the nation's dairy manufacturing and marketing industry, which supports more than 3.2 million jobs that generate \$49 billion in direct wages and \$794 billion in overall economic impact. IDFA's diverse membership ranges from multinational organizations to single-facility companies, from dairy companies and cooperatives to food retailers and suppliers, all on the cutting edge of innovation and sustainable business practices. Together, they represent most of the milk, cheese, ice cream, yogurt and cultured products, and dairy ingredients produced and marketed in the United States and sold throughout the world.

With that background, IDFA respectfully requests the Office of the U.S. Trade Representative's (USTR) consideration of the following comments in response to the agency's request for comments (Federal Register Notice USTR-2024-0002) on "Promoting Supply Chain Resilience":

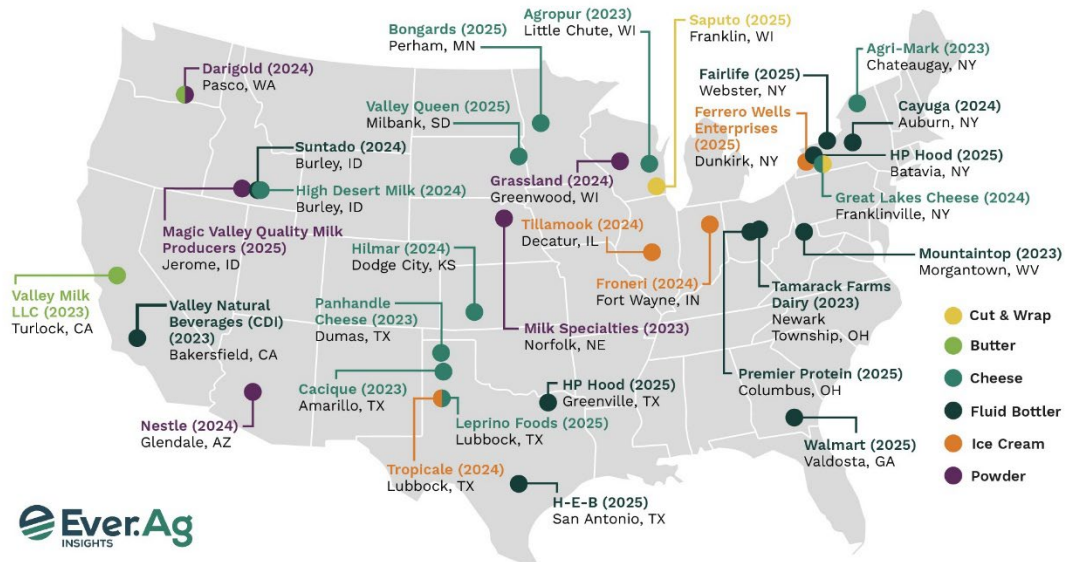
1. *How can U.S. trade and investment policy, in conjunction with relevant domestic incentive measures, better support growth and investment in domestic manufacturing and services?*

The U.S. dairy sector has a complex, globalized supply chain that requires sourcing a significant number of critical ingredients, inputs, manufacturing equipment, and other products from a wide range of sources that cannot always be produced domestically. Over-reliance on any single trading partner for those critical inputs, or eliminating sources of critical inputs without consideration of the down-chain impacts, is a significant threat to U.S. dairy's supply chain resilience.

Diversity of supply is a key element of supply chain resilience, and onshoring and reshoring in certain instances may play a role in de-risking certain, specific supply chains. However, if not implemented carefully and strategically, it can also lead to an equally undesirable over-reliance on a single supply source. Increased resilience in supply chains and diversity of sourcing requires both strong domestic production capacity as well as strategic international imports from friendly nations. U.S. trade and investment policy can serve to enhance these efforts by providing economic certainty and opportunity for both domestic and friendly foreign businesses to secure U.S. supply chains in key products.



In addition, fundamentally, U.S. trade and investment policy can support growth and investment in domestic manufacturing and services in dairy by re-engaging in a trade agenda that supports negotiating full and comprehensive preferential trade agreements (FTAs). Many IDFA members rely heavily on the ability to export their products, and that ability has historically created a boon for manufacturing investments in U.S. dairy. For instance, IDFA’s consulting partner Ever.Ag provides the below outline of new and upcoming manufacturing facilities in development across dairy:



Notably, however, many of these investments are dependent upon the performance of U.S. dairy exports. Because U.S. dairy as a sector produces more dairy than U.S. consumers consume, dairy is an export-reliant sector that requires competitive access to foreign markets to continue to fuel growth and investment in domestic manufacturing.

2. *What existing or new tools could help ensure that growth in domestic manufacturing and services does not undergo the same offshoring that we have experienced over the past few decades?*

IDFA suggests that an existing tool to support the growth of domestic dairy manufacturing is the negotiation of FTAs that include tariff reductions for U.S. dairy exports. The U.S. dairy sector cannot achieve further growth in domestic manufacturing without a trade policy agenda in place that supports foreign market liberalization, such as through the introduction of new FTAs.

Specific examples of how this existing policy tool supports dairy manufacturing include:

- Some of the most export-focused dairy companies outlined on the above investment map are building new facilities based on projected foreign market opportunities and their ability to access them competitively.



- Where such foreign market competitive access or parity of treatment for U.S. exports through FTAs falls through, IDFA has seen scenarios where planned manufacturing facility investments were then put on hold pending the reopening of a foreign market that was lost or outpriced as competitor dairy-producing countries lowered tariffs with that market while the United States did not.
 - Where FTAs have been in place, U.S. dairy exporters have experienced exponential growth in those markets that have fueled domestic manufacturing investment. For instance, U.S. FTAs with South Korea, Colombia, and Chile have yielded a whopping 247%, 511%, and 1,132% increases in U.S. dairy exports by value, respectively, since the entry into force dates of the respective FTAs.
 - In many cases, such exponential growth allowed U.S. exporters to beat competitor suppliers to become established in those markets, prompting dairy investment, innovation, and sector-wide resilience. However, as the United States has scaled back its active FTA agenda, dairy-producing competitors like the EU have increased their negotiations, in many cases directly challenging U.S. presence in third markets through new commitments on problematic topics such as geographical indications. Such conflicting agreements with our oldest FTA partners pose a real threat of offshoring the U.S. dairy presence in such markets, and with it, U.S. jobs.
3. *How can U.S. trade and investment policy promote a virtuous cycle and “race to the top” through stronger coordination and alignment on labor and environmental protections within trusted networks among regional and like-minded trading partners and allies?*

First and foremost, IDFA would like to note this question and its aim to establish the value or virtue of certain policies over others falls outside the scope of USTR’s mandate to advise, lead negotiations, and oversee enforcement.¹ IDFA strongly objects to the questions posed in this Notice by seeking input on those trade policies USTR perceives to be “virtuous” rather than seeking broad and transparent input on all U.S. trade policies from all sectors without prejudice toward the value of a policy, which should ultimately be determined by stakeholders, such as the feedback included herein.

Unfortunately, what USTR labels a “virtuous cycle” has in fact proven to be the opposite for many in U.S. agriculture, who are experiencing a historic agricultural trade deficit because USTR is not advancing trade policies for U.S. dairy exports that remove tariff and non-tariff barriers alike:²

¹ Reference: <https://www.whitehouse.gov/ustr/#:~:text=The%20Office%20of%20the%20United,as%20the%20World%20Trade%20Organization>

² Reference: <https://www.ers.usda.gov/topics/international-markets-u-s-trade/u-s-agricultural-trade/outlook-for-u-s-agricultural-trade/>.



U.S. Agricultural Trade 

U.S. agricultural trade, 2001-23



Not only is the current deficit historic, but the deficit recently forecasted by the U.S. Department of Agriculture is set to double to over \$30 billion in FY2024. With such a deficit, there is neither a “virtuous cycle” nor “race to the top”; instead, such a trade reversal benefits only those who manufacture competing goods. This in turn creates a weakened domestic labor position in U.S. dairy because as a sector, U.S. dairy is heavily reliant upon the ability to maintain competitive exports. With upwards of 18% of all U.S. dairy production exported, a trade policy that ignores the need to competitively expand foreign markets endangers several domestic dairy businesses that might otherwise have no outlet for their products and thwarts the growth of the dairy industry.

IDFA therefore strenuously urges this and any future administrations to again take up a trade agenda that includes the negotiation of full and comprehensive preferential trade agreements, including tariff and non-tariff barrier negotiations. In addition, IDFA urges USTR to seek full enforcement of existing agreements, including within the World Trade Organization (WTO), so as to ensure trading partners are not able to undercut or otherwise manipulate existing commitments and long-standing agreements, which ultimately limits U.S. competitiveness and growth. Without a trade policy that targets tariff and non-tariff barriers to U.S. dairy exports, USTR’s trade agenda is actively hurting rural communities across the United States that rely on competitive export access to continue manufacturing.

Although IDFA supports strong labor and environmental trade policies, concerns exist



regarding the manner in which this Administration has historically pursued such policies. For example:

- On environmental trade policies, IDFA has been publicly clear about U.S. dairy’s support for an ambitious, science-based environmental sustainability trade policy that sets a gold standard globally. In May 2021, IDFA published its Trade Principles on Environmental Sustainability, a document in which IDFA suggested WTO-plus principles might be expanded upon to form the basis for the United States to set the global tone for negotiations on disciplines for environmental sustainability measures which are likely to become eventual barriers to trade.³ IDFA believed then, and continues to believe now, that these principles should be used as a basis for ambitious text-based commitments in bilateral and multilateral negotiating fora. Unfortunately, while USTR has made progress in advancing certain environmental sustainability positions for agriculture, USTR’s level of ambition has not aligned with IDFA’s objectives.

If USTR desires to increase environmental protections in agriculture with trading partners, a more ambitious commitment to science- and risk-based standards, existing rules-based international frameworks like the WTO, and a more proactive and strategic approach will be necessary. In the case of environmental sustainability trade commitments for dairy, IDFA strongly supports USTR reinitiating interagency discussions that would facilitate U.S. leadership in agricultural environmental sustainability trade policy by pursuing WTO-plus negotiations and text commitments that champion the principles of science and risk.

Beyond the level of ambition in U.S. environmental sustainability positions for dairy, it should also be noted that appropriate “environmental protections” are not necessarily agreed between the United States and our “like-minded trading partners/allies.” For instance, the United States and European Union (EU) are leading policy development in sustainability metrics and reporting, but with a high degree of divergence in approach between the parties, with the EU adopting a highly prescriptive approach in comparison to the United States. Efforts should be undertaken to unify approaches on a multilateral basis as much as possible.

Further, the EU’s highly prescriptive regulatory approach to sustainability through its ‘Green Deal’ provides an overarching framework to support the EU’s ambition of being the “first climate-neutral continent” by 2050 and ensure that all aspects of the EU’s economy are contributing to the transition to Net Zero, including food and agriculture through the EU’s Farm to Fork strategy. The prescriptive nature of this approach and lack of international harmonization makes it difficult for dairy companies with globalized supply chains to comply with the varying requirements. Some examples of these difficulties include:

³ Reference: https://www.idfa.org/wordpress/wp-content/uploads/2021/04/IDFA-Dairy-Trade-Sustainability-Principles_Apr-2021.pdf.



- **Mandatory climate-related disclosures (CRD):** Tracing back to the 2017 recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), the current global standard for CRD is the International Sustainability Standards Board's (ISSB's) IFRS S1 and S2 standards. However, a number of jurisdictions have mandated, or are considering mandating, broader sustainability disclosures in addition to CRD such as the Task Force of Nature-related Financial Disclosures (TNFD). In addition, the Corporate Sustainability Due Diligence Directive (CSDDD) in the EU will require larger European companies (including subsidiaries of non-EU companies) to publish annual reports on environmental and social impact activities along their supply chains, as well as the related business impacts and risks effective by January 2025. This adds additional costs and burden to companies operating in the EU.
- **Deforestation-Free Supply Chains Regulations:** The EU Deforestation Regulation (EUDR), adopted in June 2023, aims to reduce the EU's contribution to global deforestation by banning the sale of specific products on the EU market associated with deforestation (beef, cocoa, coffee, palm oil, rubber, soy and wood). Within the EUDR, the EU proposes that producers provide highly specific geolocation data to prove their products were not produced on land deforested since December 2020, regardless of whether the product originated in a country that has a negligible or zero risk of deforestation. This overly broad and costly initiative not only does not guarantee support for the global fight against deforestation, it creates barriers to trade for those impacted without meeting the objective of the measure.
- **Carbon Border Adjustment Mechanism (CBAM):** The EU's CBAM will initially apply to carbon intensive industries (e.g. cement, iron, steel, aluminum, fertilizers, electricity and hydrogen), requiring importers to pay a price for embedded carbon in an attempt to prevent carbon leakage (where production shifts to countries with less stringent climate policies). While agriculture is not currently within scope of the EU's CBAM, the EU has indicated an intent to expand the list of covered sectors and the EU agricultural sector continues to advocate for imported products to be subject to CBAM. Measuring agricultural emissions across the entire supply chain to a final dairy product is extremely costly with no aligned standards across jurisdictions and no agreed structure to avoid double-counting. For example, to do one lifecycle analysis (LCA) product footprinting exercise on one dairy product alone can cost \$50,000 – \$100,000. If other countries considering CBAMs, such as the United States, United Kingdom, Canada, and Japan, follow the EU's approach, the required analysis would be so cost prohibitive as to potentially drive some processors out of business – not because their carbon emissions are higher, but because they simply cannot afford to measure them under such stringent reporting requirements.

Not only is the absence of an agreed multilateral approach to developing global rules for sustainability leading to a proliferation of unilateral national standards, but these divergent national standards add significant cost and complexity to supply chains, such as the examples provided above. These standards often dangerously create



advantages for domestic products without consideration of the barriers to trade they are implementing that weaken the overall resilience of supply chains.

Additionally, few of the emerging global environmental sustainability trade policies account for good-sense prioritization of exports that are carbon efficient. By acknowledging the interconnected reality of globalized supply chains, opportunities exist to facilitate the trade of carbon efficient industries, such as U.S. dairy. As the world's most efficient dairy industry, failing to prioritize policies which facilitate U.S. exports results in higher per unit greenhouse gas emissions. In short, supporting U.S. dairy exports through a robust, tariff-reducing trade policy is better for the global environment.

- On labor policies, IDFA has concerns with this Administration's current deliberations regarding whether to require agricultural importers to do supply chain mapping and risk assessments and provide such data as part of any import entry submissions. Although potentially useful for food safety purposes, expanding the scope of any such mapping and risk assessments to non-food safety objectives would be extremely complex and cost-prohibitive for most dairy importers. IDFA suggests further consideration needs to be given to such policies prior to implementation; for example, if a Customs and Border Protection official were to inadvertently erroneously flag a consignment for additional inspection based on information provided by the importer, the importer would be liable for the cost of additional detention and the risk of losing any perishable products – all without the scientific justification or risk analysis of the product outlined in the WTO Agreement on Sanitary and Phytosanitary Measures.

4. *What are examples of trade and investment policy tools that potentially could be deployed in the following sectors to enhance supply chain resilience? In these sectors, what features of the current policy landscape are working well, or less well, to advance resilience?*

- *Aerospace and aerospace components.*
- *Agriculture, forestry, and fisheries.*
- *Automobiles and automotive parts.*
- *Call centers, business processing operations, and related services.*
- *Critical minerals, including for electric vehicle and large-scale energy storage batteries, and related recycling.*
- *Metals.*
- *Pharmaceutical and medical goods.*
- *Semiconductors, microelectronics, and inputs thereto.*
- *Renewable energy generation, transmission, and storage, including solar and wind technology and inputs thereto.*
- *Textiles, such as yarns, fabrics, apparel, and other finished goods.*

With respect to agriculture, and specifically U.S. dairy, IDFA suggests the following trade policy tools should be considered to enhance resilience:



- **Lowering Tariffs with Targeted Trading Partners:** USTR’s current policy concern of creating a policy environment that builds relationships with like-minded trading partners need not be implemented to the exclusion of tariffs as tools to achieve the objective. The net result of decades of liberalized U.S. trade policy on the dairy sector are clear; not only does dairy manufacturing account for over one million direct U.S. jobs and \$255 trillion in direct economic impact, but dairy exports have increased 452% in the past 20 years to over \$8 billion annually today. U.S. dairy manufacturers, located mostly in rural areas have significantly benefited from increased access to global markets where the vast majority of dairy consumers are located. Importantly, many global food insecure consumers also significantly benefit from such actions because dairy is a nutrient-dense food critical for maternal and child development and is a product that frequently cannot be obtained in food insecure markets locally.
- **Application of Good Regulatory Practices (GRP):** IDFA strongly recommends USTR consider its own GRP positions when considering development of its current policies. Many of USTR’s current trade policy proposals have the potential to add significant cost to stakeholders, but USTR is not transparently seeking information on cost and burden prior to taking implementation decisions. Many of USTR’s current trade policy proposals were developed without transparency, even at times without consulting with cleared advisors on a confidential basis. Acknowledging the recent creation of the Chief Transparency Officer position, USTR must do more to collaborate with its stakeholders transparently, including by seeking stakeholder feedback neutrally, regularly, and without prejudice to predetermined outcomes (see below).

With respect to agriculture, and specifically U.S. dairy, IDFA suggests the following trade policy tools already deployed are working well to advance resilience:

- **Maintenance of China Phase One Agreement:** IDFA strongly supports this Administration’s decision to maintain the U.S.-China Phase One Agreement established by the preceding Administration. Although atypical, the market stability afforded to U.S. agricultural exporters by the Phase One Agreement has been significant. The Phase One Agreement significantly reduced non-tariff regulatory barriers for U.S. dairy exporters to China and has afforded such exporters market stability that directly impacts U.S. dairy supply chain resilience given the size of the Chinese market for U.S. dairy exporters (\$608 million in 2023).

With respect to agriculture, and specifically U.S. dairy, IDFA suggests the following trade policy tools already deployed are not working well to advance resilience:

- **Labeling Trade Policies as Good or Bad:** USTR’s prejudicial labeling of certain trade tools or policies as “virtuous” (i.e. good), or a “race to the bottom” (i.e. bad) has skewed its own mandate and ability to consider a full suite of policy options with fact and evidence-based neutrality. Trade policies are not ethics, values, or virtues; they



are a set of tools to be used for different objectives. Where tariffs may be useful in some circumstances, anti-dumping investigations, disputes, or a range of other instruments may be useful tools in other circumstances. If a tariff results in a negative outcome, USTR need not assume the tariff is the problem, but rather that it was perhaps the wrong tool to achieve its objective.

USTR's current tone that brandishes only certain policies as good and others bad – and confusingly, that only certain tariffs are bad (when applied preferentially to exports) while others are good (when applied as a discipline on imports) – is highly objectionable. IDFA strenuously objects to such statements on U.S. trade policy and IDFA members are gravely concerned about how such an approach alienates entire sectors that rely on competitive trading markets.

5. *What additional sectors may need dedicated trade and investment policy approaches to advance supply chain resilience? What should such approaches entail? With respect to those sectors, what features of the current policy landscape are working well, or less well, to advance resilience?*

IDFA spent significant time and resources during the height of the pandemic to determine how best to facilitate the movement of perishable goods like dairy that were stuck either in U.S. ports or trying to access U.S. ports. In such discussions a wide variety of policy concepts were discussed. For example, concepts such as a “green lane” for vessels carrying significant quantities of perishable goods to not have to wait for weeks at sea prior to berthing, or the same on land for trucks with containers of perishable goods to be able to skip the queue of trucks and other waiting containers and deliver direct to the vessel.

Ultimately such measures were not required due to IDFA's efforts to partner with ocean carriers and port officials to resolve the significant backlog of dairy products waiting to be exported.⁴ However, the lesson learned across the U.S. dairy sector from that period was a deep understanding that the U.S. supply chain does not have the flexibility to either A) absorb backlogged shipments while maintaining any order of good prioritization, or B) prioritize goods that, if not moved, may cause significant economic damage to the United States or a sector thereof.

Perishable goods may exist in many corners of U.S. agriculture, but in the case of U.S. dairy, IDFA was during the COVID-19 pandemic that many policy-makers seeking supply chain solutions did not understand the simple fact that cows do not shut off. Not only is dairy as a finished product perishable, but for the milk flowing throughout the dairy supply chain, there is no off-season or non-harvest period for the source cows. Milk must be taken every day, twice a day, or the cow will stop producing milk and

⁴ Reference: IDFA/POLA/CMA Working Group Progress Announcement: <https://www.idfa.org/news/despite-supply-chain-challenges-dairy-companies-port-of-los-angeles-and-cma-cgm-make-progress-to-prioritize-u-s-dairy-exports>.



become an economic burden on the farmer. If that milk has no outlet because exports have backed up to the extent that all down-chain processors and warehouses are full, socioeconomic livelihoods are endangered as farmers resort to dumping their milk.

IDFA urges special consideration for the supply chains of perishable goods like agriculture in particular, but more specifically, of such agricultural products like dairy that are constantly in a “harvest” season.

6. *Across sectors, how does access to capital equipment, manufacturing equipment, and technology support supply chain resilience for U.S. producers, and is there a role for trade and investment policy?*

The U.S. dairy sector is substantially domestically sourced. As one of the world’s leading dairy suppliers, the United States has a strong and healthy domestically-based production supply chain. And yet, the sector is increasingly globalized. A significant amount of capital and manufacturing equipment that supports the U.S. dairy sector is sourced outside the United States by necessity – from size-specific freezer trucks for ice cream, to chassis that move containers of U.S. dairy products for export, to state-of-the-art ultra-high-temperature (UHT) milk processing equipment. Even gum resins on dairy packaging, bulk kraft paper used for dairy powders, and popular amino acids are imported because the United States does not have the natural resources required to make these inputs required for the finished dairy products.

Vulnerabilities exist domestically as well. Even when sourced domestically, supply chain constraints and consumer demand spikes brought about by the pandemic demonstrated there is no source of manufacturing equipment, inputs, packaging, or ingredients that is risk-free. The lumber shortages brought about by the pandemic, which consequently resulted in shortages of simple warehousing tools like wood pallets, are an excellent example of a domestically-sourced product that is critical throughout the supply chain, but which regularly would not be thought of as a vulnerable supply chain need.

Therefore, IDFA urges caution before USTR considers implementation of any policy designed to shift sourcing of equipment, inputs, or other support for the U.S. dairy supply chain. Existing supply chains are well-worn pathways dictated by a complex matrix of business needs, input availability, consumer demand, sustainability goals, supply chain risk, and cost to manufacture. Policy intervention in such pathways should be instituted only when required, and even then, with great caution for any unintended consequences. While IDFA and its members may welcome the opportunity to obtain foreign-sourced manufacturing equipment within the United States, for example, IDFA suggests that moving entire manufacturing supply chains is a complex and long-term undertaking that cannot be influenced in the near-term, nor solely through policy-making. IDFA therefore would oppose policies that may have unintended consequences associated with them, such as the many policies of concern highlighted in this submission.



7. *How can the development of technical standards and regulations support supply chain resilience?*

Supply chain resilience can be enhanced by increasing visibility in the movement of goods within the United States and across our borders, including through both land and seaports. With greater visibility comes increased efficiency in the use of current capacity and infrastructure within the supply chain, effectively increasing overall supply chain utilization and capacity, and promoting supply chain competitiveness and resilience.

During the pandemic major supply chain disruptions were caused by an inability of supply chain actors to pre-position equipment to quickly move cargo into and throughout the U.S. where needed, due to a lack of visibility (and a resulting lack of predictive capability). Recent events in and around the Panama Canal, the Red Sea, and the Port of Baltimore have further demonstrated that unforeseen supply chain disruptions will continue. Since many of the root causes of the congestion witnessed during the pandemic are long-term, systemic, and/or repeatable, the U.S. economy will remain vulnerable to severe supply chain shocks.

Digital tools in use in the supply chain currently have limited utility to help. They are mostly proprietary and limited to one port/terminal or one portion of the supply chain. Because many supply chain actors are in data, industry, and modal siloes, the benefits of digitization to U.S. supply chain competitiveness and resilience are far less than they could be. The lack of interconnectedness of different digital supply chain systems negatively impacts overall U.S. supply chain efficiency, end-to-end visibility, and predictive capability, adversely affecting resilience. It exacerbates congestion during seasonal cargo surges and crises caused by, e.g., extreme weather events, pandemics, cyber attacks, and armed conflicts. It also makes U.S. exports less competitive and U.S. supply chains less agile and resilient, undermining national security.

For this reason, IDFA strongly supports the Ocean Shipping Reform Implementation Act of 2023 (“OSRA 2.0”), a bipartisan bill championed by Reps. Dusty Johnson (R-SD) and John Garamendi (D-CA). Section 201 of OSRA 2.0 calls for the Federal Maritime Commission (FMC) to develop a data standard that would incentivize “the voluntary sharing of appropriate supply chain data” with respect to maritime freight logistics and ocean transportation in U.S. foreign commerce.

The data standard called for by OSRA 2.0 would include a common lexicon of terms and measurements, a method for exchanging real-time data, and appropriate protections to ensure confidentiality of proprietary business information and protect data from unauthorized use. Among other things, the standard would facilitate “the arrival, unloading, loading, and departure of vessels,” “cargo availability and pick up reservation,” “chassis availability”. It would also require the FMC, in developing the standard, to “consider relevant data standards used or under development within the private sector” that are “developed in open, transparent, impartial, balanced, consensus-based processes;” “are performance-based, technology neutral, and vendor neutral;” “are



interoperable, allowing for the exchange and use of data between devices and systems;” “are market relevant and globally applicable;” “are nonduplicative of, and coherent with, other relevant standards, guides, best practices, and frameworks;” and “allow information owners to control what information is shared, when information is shared, with whom, and for what purpose.”

One standards activity that meets this description is happening in ASTM International’s Committee F49 on Digital Information in the Supply Chain, in which IDFA participates. Founded in 2022, Committee F49:

“is focused on providing the data standards necessary for next generation efficiencies in the global supply chain process covering all major modes of transport...Supply chains face poor performance of logistics resulting from massive problems and disruptions caused by the current inadequate communication processes. F49 will deliver standardized common language, common processes, and information exchanges that will remove roadblocks to better performance of logistics and supply chains.”

Officials from the FMC, the Surface Transportation Board (STB), the Food and Drug Administration (FDA), and the National Institute of Standards and Technology (NIST) are members of Committee F49, and officials from other federal agencies have also participated in Committee meetings. Committee F49 has published its first standard, which sets out foundational terminology for the goods movement process, and there are 17 active work items projected for completion by the end of 2024, including proposed standards that would support the FMC’s Maritime Transportation Data Initiative and the Department of Transportation’s FLOW (Freight Logistics Optimization Works) Initiative.

Consistent with OMB Circular A-119, USTR and other U.S. agencies and departments should continue to participate in, and make technical contributions to, the standards under development in Committee F49 (and other bodies that are developing relevant voluntary consensus standards, including international standards). Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 and Circular A-119, USTR and other U.S. agencies and departments should use such standards to carry out their policy objectives and activities – including rulemakings, procurements, and other programmatic activities – unless the standards are inconsistent with law or otherwise impractical to use. Doing so will incentivize major supply chain players to promote the interconnectedness of their digital supply chain tools and networks consistent with relevant parameters, such as those described in OSRA 2.0. This, in turn, will improve U.S. supply chain resilience for all sectors of the economy.

The United States should further reinvigorate its previous work in multilateral and regional forums with like-minded “friends” for stronger international rules, technical standards, and approaches to regulation. Instead of unilaterally restrictive or protectionist trade policies that result in a “race to the bottom” with trading partners, which adds



complexity, costs, and weakens the resilience of global and U.S. supply chains, a strong international and multilateral technical standards engagement strategy will only help to serve U.S. commercial interests and supply chain resilience in the future.

Another example of multilateral standards engagement that fosters supply chain resilience can be found in the critical work of Codex Alimentarius Commission. Harmonization and alignment of food safety standards, product quality standards, and other technical requirements between partner countries, such as by adopting Codex standards, is critical to fortifying the resilience of supply chains. When nations use international organizations to align their standards, they effectively reduce barriers to trade by minimizing the need for duplicative requirements, such as import testing and certification procedures. This alignment fosters a more conducive environment for businesses to operate in both markets, as it reduces the complexity and costs associated with navigating varying regulatory frameworks. It also establishes common technical requirements that creates a framework that helps exporters withstand disruptions and unforeseen challenges. Standardized processes enable businesses to swiftly adapt to changes in sourcing, production, and distribution, thereby reducing vulnerabilities associated with localized disruptions or geopolitical uncertainties. Moreover, a harmonized approach allows for greater transparency and traceability throughout the supply chain, enabling stakeholders to identify and address risks more effectively.

8. *There is concern that preferential rules of origin in free trade agreements can operate as a “backdoor” benefiting goods and/or firms from countries that are not party to the agreements and are not bound by labor and environmental commitments. What actions could be taken to mitigate these risks and maximize production in the parties? What policies could support strong rules of origin and adherence to rules of origin?*

Liberal rules of origin reflect modern global supply chains and are fundamental to supporting trade, facilitating the cross-border movement of goods and services, and promoting supply chain resilience. By allowing inputs to be sourced from many locations and trading partners, diversity of supply is increased and thereby builds resilience into the system. Penalizing products that may include small amounts of components sourced from parties outside of an agreement simply does not reflect modern supply chains and only serves to enhance industry consolidation and supply chain vulnerability.

This is the case in the dairy sector where finished products often have specialty ingredients sourced from multiple jurisdictions, but which may be substantially transformed within FTA partners. While targeted, coordinated efforts against specific problematic supply chains can be effective to reduce labor or environmental violations, overly broad rules of origin restrictions alone do not necessarily lead to better outcomes. Any restrictions around rules of origin that diverge from the general concept of “substantial transformation” should be highly specific to individual product circumstances.



9. *What factors are driving supply chain and sourcing decisions, and how does trade and investment policy impact them? How do companies factor geopolitical risk into their global and domestic manufacturing and sourcing decisions? How do companies take into account traceability and transparency considerations in supply chain and sourcing decisions?*

See the response to question 6; IDFA members indicate they continue to make supply chain and sourcing decisions on the basis of what makes the most business sense, taking into account the variety of considerations that influence such decisions including geopolitical risk, business needs, input availability, consumer demand, sustainability goals, supply chain risk, and cost to manufacture. Where practical to manage risk, companies indicate they also actively work to ensure resilience within supply chains by sourcing from multiple suppliers. However, not every input is possible to diversify where, for instance, certain inputs may be single or limited sourced (e.g. carbon dioxide for specialty product storage and transportation, sunflower seeds used for lecithin, etc.). In such cases, there are no alternatives when geopolitical risks, traceability requirements, or transparency considerations arise.

10. *To what extent is supply chain resilience shaping capital allocation decisions among industry and investors?*

See the response to question 6; supply chain resilience is a single factor in a set of many that create a complex web of considerations that shape investment decisions, and each industry or investor may choose to give such factors different weight based on their circumstances at that time. Supply chain resilience for U.S. dairy in 2021 during the port backlog and pandemic crisis may have been given more weight than it does now, or would in the future. Each company responds to such decisions as they see fit.

In addition to individualized decision-making throughout the supply chain, rising transportation costs post-pandemic have limited U.S. exports to markets where competitors may have lower supply chain costs. Such costs are passed along the supply chain, ultimately limiting decisions such building new facilities or facility expansions, thereby delaying investments that causes the United States to lag behind in global competitiveness, particularly where other countries are actively incentivizing their dairy and agricultural sectors to trade.

Concerningly, however, IDFA notes that it appears from questions posed in this Notice that such complexities are not well understood. Modern supply chains for U.S. dairy production are globalized, including ingredients and components being sourced from a variety of locations to provide diversity of supply (e.g. resilience). The idea that a U.S. federal agency should be considering policy-making that seeks to control how companies choose to manage their supply chain investments is highly concerning. Instead of asking how supply chains shape investments, IDFA suggests the more appropriate question is, how can the U.S. government invest in supply chains? There is a desperate need for continued infrastructure investment in ports and roads to enable U.S. supply chain



resilience, and such investment support is something the U.S. government is uniquely positioned above private entities to offer. Having the certainty of federal support for supply chain infrastructure provides U.S. industries and investors like dairy the confidence in the U.S. supply chain logistics, freeing them to focus on other factors impacting investment decisions.

11. How can supply chain resilience be measured, including the costs of insufficient resilience, and the impacts of trade and investment policy on resilience? What are appropriate quantitative or qualitative data to consider?

IDFA suggests USTR should consider trade data, such as the new agriculture trade deficit data previously referenced, as a primary indicator of resilience in light of its measurement of a sector's economic strength. Other relevant data points to measure impacts include:

- Number of stakeholder comments received in favor of or against particular proposed policies, on a per-sector basis;
- Congressional input on trade and investment policy;
- Whether a sector's exports are growing, stagnant, or declining, on a market basis, taking into account the projected demand of the market as published by the U.S. Department of Agriculture (USDA);⁵
- Analysis of a country's import volumes from the U.S. relative to competing countries over the past 3-5 years so as to better assess market losses and factors that influenced such losses (like competitors' tariffs);
- A sector's job creation, rate of investment, or losses in jobs and investment opportunities; and
- The extent to which competitors are replacing U.S. exports in third markets.

12. How can U.S. trade and investment policy support supply chains that are inclusive of small disadvantaged businesses and underserved businesses, including minority-owned and women-owned businesses, veteran-owned businesses, service-disabled veteran owned small businesses, and HUBZone businesses, and promote trade opportunities in underserved communities?

Please see previous answers; in many cases, U.S. dairy processors are the kinds of small and women-led businesses USTR references. The U.S. dairy sector supports more than 3.2 million jobs that generate \$49 billion in direct wages and \$794 billion in overall economic impact. Such jobs are frequently located in rural areas or are supported by small businesses. Unfortunately, many IDFA members feel unsupported by U.S. trade and investment policies, and feel their own future success now lies with them alone. IDFA strongly supports a shift in U.S. trade and investment policy that includes the U.S.

⁵ Reference: USDA Foreign Agricultural Service Reports on Production, Supply, and Demand: <https://gain.fas.usda.gov/#/home>.



IDFA
International
Dairy Foods Association

dairy sector's interests, thereby supporting small, rural, and women-led businesses across the United States.

Thank you for the opportunity to comment and please do not hesitate to contact IDFA with any questions or concerns regarding this submission.

Sincerely,

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