Intelligence MEMOS

As NAFTA renegotiations proceed through the fall C.D. Howe Institute Intelligence Memos will be looking at what to expect and provide analysis on the latest developments at the table. This post is part of that series.

From: Jon Johnson

To: The US Dairy Industry

Date: November 6, 2017

Re: **No Progress on Canadian Dairy Supply Management if NAFTA Talks Fail**

Your industry has a window of opportunity for improving access to the Canadian dairy market. However, that window will close if the NAFTA talks fail. Your chances for improved access will be even worse if the US withdraws from NAFTA.

US negotiators have made poison-pill demands that neither Canada nor Mexico can possibly accept. These include: a sunset clause that would automatically terminate NAFTA after five years unless all three parties agree to renewal; effective evisceration of the NAFTA dispute settlement mechanisms including state-to-state dispute settlement that is essential to any well-functioning trade agreement; punitive automotive rules of origin that include a 50 percent US-specific content requirement that violates WTO requirements; and government procurement rules that would reduce the combined access of Canada and Mexico to US procurement markets to a level less than that enjoyed by Bahrain.

Congress must approve any agreement that is reached. Kevin Brady, chair of the House Ways and Means Committee, strongly opposes weakening dispute settlement procedures. The US auto industry is vehemently opposed to the proposed auto rules of origin. The US business community has strongly rejected the proposals on government procurement. Never mind Canadian and Mexican opposition, these proposals would never be approved by Congress.

The opening US proposal on dairy calls for phasing out Canada's dairy supply management system over a period of 10 years. Canada's dairy industry naturally describes this as another poison pill. But unlike the real poison pills listed above, the US position on dairy is not trade-restrictive and can best be described as an aggressive opening position. While Canadian politicians strongly defend Canada's restrictive supply management system, in fact Canada agreed to some easing of dairy import quotas in a number of recent trade negotiations, including the Trans-Pacific Partnership talks. Supply management benefits Canada's diminishing numbers of dairy farmers, but results in high prices for processors and consumers, at a net cost to our country. Many Canadians want this system to be replaced and would approve of loosening restrictions on US milk products. Also, rulings by the WTO Appellate Body preclude the Canadian industry from charging export prices any lower than the high domestic prices. This has effectively shut it out of foreign markets.

The Canadian dairy industry has legitimate concerns about significantly opening the market to US imports. Your industry, which operates on a much larger scale, benefits from subsidies, as well as from lower costs through extensive use of immigrant labour. US dairy imports could wipe out the Canadian industry unless that structural advantage is addressed. Also, any transition period should permit Canadian exporters to charge competitive prices in the US, notwithstanding the WTO ruling.

All in all, your industry would benefit from greater access to the Canadian market, and this is an achievable outcome of the current NAFTA renegotiations – if, that is, US negotiators remove their poison pills. I recommend that you take whatever steps you can to have them removed so that the NAFTA talks have a chance of success.

Jon Johnson is a former advisor to the Canadian government during NAFTA negotiations and is a Senior Fellow at the C.D. Howe Institute.

To send a comment or leave feedback, email us at blog@cdhowe.org.