

United States Senate

WASHINGTON, DC 20510

May 3, 2010

Mr. James Miller
Undersecretary, Farm & Foreign Agriculture Service
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Undersecretary Miller:

We are writing to express our concern with current regulations regarding timely usage quotas of the Dairy Import License Program. While the regulations governing the timely usage of licenses are well-tuned in normal circumstances, we fear that in light of the current global economic recession, these regulations may cause unintended harm on importers, many of whom are small businesses based in New Jersey.

Currently, Section 6.25(b) of the Farm & Foreign Agriculture Service (FAS) Dairy Tariff-Rate Quota Import Licensing regulations stipulates that an importer who does not use more than 50 percent of a license in at least three out of five years will forfeit the unused share of that license into a lottery system. Under normal market conditions, this surrender penalty is important to promote continued product flow and prevent market manipulation. Unfortunately, a number of detrimental market conditions such as a weakened dollar, falling European exports, and an American economy in recession have created a situation where the cheese importing industry could be harmed by restricted licenses for years to come through no fault of their own.

FAS has acknowledged the impact of the poor economic climate on the industry by postponing further execution of the surrender penalty provision until January 1, 2011. However, this postponement still leaves importers at serious risk of license forfeiture if economic conditions do not rapidly improve.

In order to prevent these undesirable consequences, we ask that you consider devising new surrender penalty guidelines prior to January 1, 2011. Alternatively, if such change cannot take place by this date, we urge FAS to consider further extending the current suspension period beyond the January 2011 deadline, so that FAS and industry stakeholders may have an opportunity to work together to develop an equitable solution to this pressing issue.

cc:
Senator Blanche Lincoln
Chair, U.S. Senate Committee
on Agriculture, Nutrition & Forestry

Our nation is in the midst of a global financial downturn that has threatened the economic security of all Americans. While we have begun to see some signs of growth, it will still take several years for many of our small businesses to fully recover. It is important that our federal agencies closely examine existing regulations to ensure they don't create unintended consequences as economic conditions evolve. We look forward to your prompt response on this important issue. Thank you for your timely consideration.

Sincerely,


ROBERT MENENDEZ
United States Senator


FRANK R. LAUTENBERG
United States Senator

cc:
Senator Blanche Lincoln
Chair, U.S. Senate Committee
on Agriculture, Nutrition & Forestry