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HARMONIZATION ALERT, a publication of Public Citizen, seeks to promote open and accountable policy-making relating to public health, natural resources, consumer safety, and economic justice standards in the era of globalization.

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NAFTA INVESTOR-TO-STATE CASES

Topic: *Philip Morris Warns Canadian Public Health Proposal Violates NAFTA*

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A March 16, 2002 article in the Toronto *Globe and Mail* stunned Canadian health officials who were preparing to issue a new regulation on cigarette labeling. The newspaper reported that Philip Morris, the U.S. tobacco giant, was considering a Chapter 11 investor-to-state suit under the North American Free Trade Agreement (NAFTA) because of a proposed public health rule which would ban the words 'light' and 'mild' from cigarette packaging. [1]

Just one week later, Philip Morris again made headlines. On March 22nd, a jury in Portland, Oregon ordered the company to pay $150 million in punitive damages in a lawsuit brought by the family of a woman who died of lung cancer at a young age after switching to a light brand that she understood to be safer than regular cigarettes. [2]

The Nafta Claim: Since NAFTA's enactment in 1994, corporate investors in all three NAFTA countries have used the agreement's investment chapter (Chapter 11) to challenge a variety of national, state and local environmental and

public health policies, and even domestic judicial decisions as NAFTA violations.[3] NAFTA gives corporations the ability to do so in a closed-door arbitration system that operates outside the domestic court system and excludes public participation, observation or input even though it is the taxpayers who must foot the bill for any compensation awarded. While most of these NAFTA cases are still pending, some companies have succeeded with these challenges already.

Under NAFTA Article 1110, governments must compensate foreign investors for measures that "expropriate" their property or are "tantamount to a direct or indirect expropriation."[4] In Canada, Philip Morris holds registered trademarks for such brand names as *Benson and Hedges Lights* and *Rothman Extra Lights*.[5] In a submission to the Canadian government, Philip Morris argues that the proposed ban of the descriptors 'light' and 'mild' would be "tantamount to an expropriation" of its tobacco trademarks containing those words. Philip Morris argues that if the Canadian regulation were to go into effect, the company would deserve compensation under NAFTA Chapter 11 from Canadian taxpayers because it had invested millions "developing brand identity and consumer loyalty."[6]

The company also asserts that the ban would be unfair and inequitable under NAFTA Article 1105, which requires "fair and equitable treatment and full protection and security" under international law.[7] Philip Morris argues that government officials in Canada and the U.S. "actively encouraged" tobacco companies to develop and market low-yield cigarettes, and it is unfair of them now to chart a new course.[8]

Cynthia Callard, Executive Director of Physicians for a Smoke-Free Canada, responded "Governments said that 20 years ago. At the time they were not equipped to understand that tests indicating a lower yield on a machine could still give a higher yield to a smoker. The companies spent millions on these tests and studying smokers. They had the information, but never shared it. It is only now after all the recent lawsuits that governments are finding out about the scientific data withheld from them."[9] Such studies indicate that smokers compensate for low-yield cigarettes by inhaling more deeply.[10]

In its February 2002 submission to the Canadian government, Philip Morris also claims that the proposed Canadian measure violates Canada's obligations under the World Trade Organization (WTO). The company argues that the proposal would violate the WTO's Technical Barrier to Trade Agreement (TBT), which requires that regulations governing products and product labels be the "least trade restrictive to fulfill a legitimate objective" and do not create unnecessary obstacles to trade.[11] The company further argues that Canada would use its proposed regulations to bar the import of a variety of Philip Morris brands with the words 'light' and 'mild' in the name, thus creating an obstacle to trade.[12]

The tobacco company also claims that the proposed Canadian policy would violate Article 20 of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) which protects trademarks and copyrights. TRIPS Article 20 reads: "the use of a trademark in the course of trade shall not be unjustifiably encumbered by special requirements, such as... use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings."[13] Thus, the Philip Morris argues the Canadian regulations unduly burden its copyright to such names as *Bensen and Hedges Lights*.[14]

The support of a government is needed in the state-to-state dispute mechanism of the WTO. However, the company itself can bring a complaint under the NAFTA investor-to-state dispute resolution system. Thus, a NAFTA case for taxpayer compensation is considered a more serious threat. An essential part of the Phillip Morris argument is that

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under NAFTA and WTO rules, a nation must regulate in the "least trade restrictive" manner possible, thus subsuming its public health obligations to its international trade obligations. While the company *agrees* that light cigarettes are no safer than other cigarettes, it argues that a short statement on individual cigarette boxes to that effect is a less trade restrictive way to take care of the problem. [15]

This reading of the trade agreements would provide regulated companies with a broad new ability to undermine many existing and future public health policies. This understanding of trade rules would expose almost any regulatory policy to second-guessing by the regulated industry which need only suggest to a government which least trade restrictive option it prefers regardless of political, economic or technical feasibility.

Philip Morris is not alone in this understanding of Canada's trade obligations. A NAFTA Chapter 11 tribunal has already ruled that Canada's obligation to pursue the least trade restrictive option when promulgating regulations trumps health, safety and environmental considerations. In November 2000, a NAFTA tribunal in the S.D. Myers Chapter 11 case found that Canada's temporary ban of PCB exports due to environmental concerns was reasonable. However the tribunal also ruled that Canada's actions were NAFTA-illegal because the tribunal decided that the manner in which Canada sought to implement its environmental goal was not the least trade restrictive manner possible.[16] The panel, with no expertise in environmental policy, nonetheless put forward a variety of suggestions on other less trade restrictive alternatives Canada might have pursued to achieve similar ends.

The Public Health Problem: According to the Canadian federal agency Health Canada, 45,000 Canadians die every year in Canada of tobacco related disease.[17] As part of a larger program to combat cancer deaths, agency officials announced in August 2001 they were considering new tobacco regulations that would among other things prohibit the use of descriptors such as 'light' and 'mild' on cigarettes sold in that nation. "We believe that the use of descriptors such as 'light' and 'mild' on tobacco product packaging is confusing smokers and misleading them to believe that these products are less harmful to their health," said former Canadian Health Minister Allan Rock. "'Light' and 'mild' cigarettes can be just as harmful as regular cigarettes and today we are taking the first step towards the adoption of regulations to help protect the health of Canadians."[18]

The notion that such new tobacco regulations would be beneficial is supported by three recent developments in the U.S. First, on March 22, 2002, Philip Morris was ordered to pay $150 million in punitive damages in a lawsuit brought by the family of Michele Schwarz who died of lung cancer in 1999 at the age of 53.[19] The lawyer representing the Schwarz estate argued that Schwarz had switched brands from Bensen and Hedges to Merit, which Philip Morris marketed as having lower tar and nicotine, because she believed that low-tar cigarettes were a safer alternative.[20] The verdict by a jury in Portland, Oregon was the first in the nation to find that a tobacco company marketed low-tar cigarettes as a healthier alternative, even though industry officials knew that they were just as dangerous as regular cigarettes.[21] According to the *Associated Press*, there are similar, class action lawsuits pending against Philip Morris and other tobacco companies in at least 11 U.S. states.[22]

In addition, a November 2001 monograph by the U.S. National Cancer Institute concluded: 1) that 'light,' 'mild' and 'low-tar' cigarettes were just as harmful as regular cigarettes; and, 2) that advertising strategies used by Philip Morris and other companies intended to reassure smokers, prevent smokers from quitting and led consumers to perceive filtered and low-tar products as safer alternatives to regular cigarettes.[23]

Finally, the U.S. federal government also is considering a ban similar to the Canadian proposal as part of its legal strategy to combat smoking in the United States. According to the March, 11, 2002 *Wall Street Journal*, the U.S. Justice Department will be asking a federal judge to impose the restrictions in a civil lawsuit alleging fraud, racketeering and conspiracy by the tobacco companies in an effort to conceal the health hazards of smoking.[24] The U.S. proposal would forbid 'light,' 'low-tar,' and 'mild' descriptors as well as curtail

tobacco advertising, end trade promotions and give-aways and ban vending machine sales.[25]

The NAFTA Context of the Philip Morris Threat: The Philip Morris case draws worrisome parallels not only to the S.D. Myers PCB case, but to another NAFTA case filed in 1998. In that case, the U.S.-based Ethyl Corporation sued Canada for $250 million under NAFTA because Canada banned the gasoline additive MMT due to environmental and health concerns.[26] Ethyl claimed the ban violated NAFTA because it "expropriated" future profits and damaged Ethyl's reputation.

Notably, the Ethyl corporation started its NAFTA case by filing a "Notice of Intent" to file a claim *before the MMT ban had been finalized in parliament.* Once the ban passed, the company immediately moved forward with its NAFTA complaint without waiting the six months after final action that NAFTA requires before a party can bring a complaint. After learning that the NAFTA tribunal was likely to rule against its position, the Canadian government revoked the ban, paid Ethyl $13 million in damages, and issued a public statement declaring there was no evidence that MMT posed health or environmental risks.[27]

By initiating a NAFTA suit before the law was even passed and by circumventing domestic avenues for challenging a law or regulation, Ethyl hung the potential of future monetary damages over the heads of lawmakers. While the Canadian Parliament did not give in to the pressure in this instance and went on to pass the ban, the number of threatened corporate trade challenges is increasing. The record of similar threats at the WTO shows that they can have a chilling effect on future public interest policies being considered by governments and often result in governments preemptively conceding and changing a policy to avoid a formal trade ruling and imposition of damages by a panel against it – as Canada did in the Ethyl case.[28]

The threat to public health embedded in WTO and NAFTA trade rules has proved potent already. "Governments will never tell you if they changed their mind because of a NAFTA or WTO trade threat. But we remember the last time Philip Morris threatened a Canadian public health proposal. In 1994, the company hired Carla Hills, the former U.S. Trade Representative, to argue that Canada's generic packaging proposal for cigarettes was a NAFTA-illegal trade barrier. Well, that proposal has disappeared and has not been seen since," said Cynthia Callard.

FOOD SAFETY

Topic: *Petition to Harmonize the Definition of Milk to Include Milk Protein Concentrate*

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Judges tasted creamy, golden cheddar, crumbly feta and a variety of other cheeses at the World Championship Cheese Contest from March 18 to 22 in Madison, Wisconsin. Cheese makers from Canada to Australia presented their best quality products in the hopes of winning the blue ribbon. To achieve the best taste and texture in their cheeses, makers use high quality products, such as fresh milk. Mentioning milk protein concentrate (MPC) in this crowd of cheese connoisseurs is akin to comparing children's refrigerator art to works in the Metropolitan Museum of Art.

"Those aren't cheese," said the President of Cedar Grove Cheese, Bob Wills, of cheese products that use MPC. Cedar Grove does not use MPC in any of their cheeses. "It's a question, for us, of product quality," he reasoned. For Wills, quality cheese products do not include MPC.[29]

The issue of MPC in cheeses has come to public attention because two groups are currently petitioning the U.S. Food and Drug Administration (FDA) to change the definition of milk used in cheese production. The new definition of milk would include MPC and pave the way for widespread use of MPCs in cheese production. If the petitions succeed, the U.S. definitions of products made from milk, such as cheese, would be harmonized with the international cheese standard of the Codex Alimentarius in Rome, potentially impacting not only the quality of cheese in the U.S., but the livelihoods of thousands of small dairy farmers as well.

MPC is a dried, ultra-filtered milk protein substance that is precipitated from milk[30] and used in a variety of products from candy to milk shakes, and in a variety of Kraft products including *Velveeta, Cheese Whiz* and certain Kraft *Singles*.[31] Because the U.S. government's dairy price support program does not cover MPC, most MPC used in the U.S. is imported. MPC imports into the U.S. increased 56-fold from 1990-1999.[32] Some cheese manufacturers use MPC in the place of other milk products to save money when transporting and storing milk. Ultra-filtered milk, especially MPC, is much more condensed than milk, so it takes up less space in storage and is less expensive to transport than whole milk. Manufacturers also use MPC to increase their cheese production at a lower cost than if they used whole or nonfat dry milk. According to Wills and other cheese producers, cheese manufacturers that use MPC produce low-cost cheeses at quality's expense.

Even though imports of MPCs are skyrocketing, MPC is not an authorized food or food additive under U.S. law. Currently, FDA defines milk in the production of standardized cheese to be "lacteal secretion obtained by the complete milking of one or more healthy cows" including "concentrated milk, reconstituted milk and dry whole milk."[33] Consequentially, MPC and other ultra-filtered milk cannot be used in the production of standardized cheeses, such as cheddar or mozzarella. If these cheeses were made from MPC, they could not legally be labeled cheddar or mozzarella.[34] Nor has MPC passed FDA's years-long certification process as an ingredient Generally Recognized as Safe (GRAS) which would allow it to be used in non-standardized cheeses such as feta or pizza cheese.[35] As a result, MPC must be classified as an unapproved food additive or adulterant.[36]

"This stuff is simply not legal in the U.S. today," says Joaquin Contente, President of the California Farmers Union. "Why is an unapproved ingredient on supermarket shelves?"[37]

But, the American Dairy Products Institute (ADPI) and the International Dairy Food Association (IDFA) are petitioning the FDA to make MPC legal. They want to change FDA's definition of milk to include ultra-filtered milk as a product that is synonymous with milk for use in cheese production.[38] In these petitions, filed in December 1999 and June 2000 respectively, ADPI and IDFA reason that if wet ultra-filtered milk were to be used in cheese production as though it were milk, cheese manufacturers would be able to save money when transporting and storing milk since ultra-filtered milk is much more concentrated than milk.[39] Manufacturers would also benefit from increasing their cheese production with inexpensive protein. According to the ADPI, it would benefit consumers if cost savings were passed on.

FDA reviewed the petitions, but to date has taken no action. According to FDA Spokesperson Sebastian Cianci, developing a proposal to amend the definition of milk in the cheese standard will be a main priority for the FDA next year.[40]

If the FDA changes the definition of milk in the U.S. cheese standard to include MPC, it would be harmonizing the U.S. definition with the international standard developed by the Codex Alimentarius (Codex) in Rome. The Codex cheese standard states that cheese can be made by "processing techniques involving the coagulation of the protein of milk and/or products obtained from milk which give an end product with a similar physical, chemical and organoleptic characteristics as the product defined under (a)."[41] The phrase "products obtained from milk" means that MPC can be used to make any cheese under Codex standards.

"Codex Alimentarius" is Latin for food law. The World Health Organization and the United Nations Food and Agriculture Organization

established the Codex Commission as a voluntary standard-setting body in 1962, primarily to facilitate international trade in food and agricultural products. Codex standards were elevated to a new and more prominent role by the North American Free Trade Agreement (NAFTA) and World Trade Organization (WTO) agreements, which specifically recognize Codex as setting the world's trade-legal food safety standards. Countries maintaining different or more restrictive food safety regulations, including those related to cheese production, than those endorsed by Codex could find their regulations challenged in WTO and NAFTA tribunals by other countries that view them as barriers to trade.

If Codex and U.S. cheese standards were harmonized, cheese manufacturers in the U.S. would be able to use MPC in the production of all cheeses. This has generated a variety of concerns by consumers, cheese producers and small dairy farmers.

In the U.S., dairy products are regulated by the FDA. The FDA is charged with guaranteeing that imported dairy products are safe and properly labeled. But MPC is generally released onto the U.S. market with little monitoring and inspection.[42] Not only is FDA inspection at the border woefully in adequate (estimated to be less than 1% of total imports for which the agency is responsible),[43] but FDA believes MPCs pose a minimal health risk. According to a GAO report, "FDA officials told us that they have little concern about the safety of dry milk protein concentrates because the products are treated with heat during pasteurization and drying, which kills pathogens."[44]

But, Gerald Carlin, a Pennsylvanian dairy farmer and national director for American Raw Producers Pricing Association (ARMPPA), believes the FDA places too much faith in pasteurization. The security of the end-product of foodstuffs that use milk as an ingredient depends on how clean and safe it is to begin with, and on the sanitary conditions under which the product is made, he said. "Pasteurization doesn't kill all pathogens, especially if it starts out as a really filthy product," said Carlin.[45] The Wisconsin-based dairy market report *The Milkweed* also reported that some MPCs come in from the Chernobyl region of Belarus.[46]

Another concern for consumers is quality Cheeses made with MPC are "bitter tasting and don't age as well," according to New York dairy farmer John Bunting.[47] "When MPC is added to mozzarella, it doesn't stretch like it normally does and does not melt as well as other cheeses," said Carlin. According to Carlin, although powders store longer than liquid milk, the taste of cheese is compromised along with its texture when MPC is substituted for other milk products.

When given a choice between powders and fresh milk, members of the Wisconsin Cheese Makers Association (WCMA) prefer fresh milk, said John Umhoefer, executive director of WCMA.[48] "We'd prefer that all cheeses be made with fresh milk," Umhoefer said of WCMA members. To address these concerns, U.S. Senator Russ Feingold (D-WI) and U.S. Representative Tammy Baldwin (D-WI) have introduced companion bills, entitled "The Quality Cheese Act," to prevent ultra-filtered milk from being used in standardized cheeses.[49]

In addition to safety and quality concerns, more and more small dairy producers are becoming concerned about skyrocketing MPC imports, which are lowering the price of milk for all dairy farmers in the U.S. "Imports of dry, ultra-filtered milk are damaging the economic health of dairy farmers across the country," said Jerry Kozak, Chief Executive Officer of National Milk Producers Federation (NMPF), a trade union that represents dairy cooperatives in the U.S.[50]

Even though milk prices for consumers have continued to go up steadily, milk prices that farmers receive have declined from a high of $16 per hundredweight in 2001 to less than $12 in April 2002.[51] Imports of MPC are compounding the crisis for America's small dairy farmers. The California Farmer's Union estimates that imports of MPC have resulted in lowering of the U.S. price for nonfat dry milk by 50 cents per hundredweight which represents $800 million per year in lost dairy income.[52] Some argue that if casein and MPC imports were limited, cheese producers would turn to domestic nonfat dry milk as a substitute. This would reduce government surpluses of nonfat dry milk, boost milk prices in the U.S. and lower the cost of dairy price support programs saving taxpayer money.

Since MPC imports are rarely inspected, it is difficult to prove that what is being imported is actually MPC and not other dairy powders, said Christopher Galen, spokesperson for NMPF.[53] Galen is concerned that MPC producers are blending and shipping products, such as non-fat dried milk, under the guise of MPC to circumvent trade tariffs that are placed on non-fat dried milk and other powders. "It may not be MPC, but dressed up to look like MPC," he said. Galen believes this could be prevented if MPC were subject to the same tariffs and quotas as those applied to nonfat dry milk and similar dairy imports.

As long as MPC is cheaper than other dairy powders, it will be more attractive to giant cheese makers, said Peter Hardin, editor and publisher of *The Milkweed*. "Cheaper ingredients boost corporate profits," said Hardin. "Cheap ingredients also make cheap, low-quality cheese. I don't eat the stuff."[54]

— Eve Hightower for *Harmonization Alert*

FEDERAL REGISTER ALERTS

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Architectural and Transportation Barriers Compliance Board

Americans with Disabilities Act (ADA) Accessability Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines
67 Fed. Reg.15509 (Apr. 2, 2002)
Availability of final draft and guidelines.

Department of Agriculture

Monsanto Co.; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Corn Genetically Engineered for Insect Resistance (USDA)
67 Fed. Reg. 11458 (Mar. 14, 2002)
Notice.

Irradiation Phytosanitary Treatment of Imported Fruits and Vegetables (USDA)
67 Fed. Reg. 11610 (Mar. 15, 2002)
Proposed Rule.

Mandatory Inspection of Ratites and Squabs (USDA)
67 Fed. Reg. 13253 (Mar. 22, 2002)
Final Rule.

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Determination of Residual Free Formaldehyde Content of Biological Products (APHIS)

67 Fed. Reg. 16327 (Apr. 5, 2002)
Proposed Rule.

Codex Alimentarius Commission: Meeting of the Codex Ad Hoc Intergovernmental Task Force on Animal Feeding (USDA)
67 Fed. Reg. 18855 (Apr. 17, 2002)
Notice of Public Meeting. Meeting June 4, 2002.

Department of Commerce

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67 Fed. Reg. 9441 (Mar. 1, 2002)
Notice of workshop.

Department of Energy

Compatibility with IAEA Transportation Safety Standards and Other Transportation Safety Amendments (NRC)
67 Fed. Reg. 21389 (Apr. 30, 2002)
Proposed Rule.

Department of Health and Human Services

National Institute of Environmental Health Sciences; Notice of Establishment; Scientific Advisory Committee on Alternative Toxicological Methods (NIEHS)
67 Fed. Reg. 11358 (Mar. 13, 2002)
Notice.

Department of Transportation

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67 Fed. Reg. 9799 (Mar. 4, 2002).
Notice.

Federal Motor Vehicles Safety Standards; Tires (NHTSA)
67 Fed. Reg. 10049 (Mar. 5, 2002).
Notice of Proposed Rulemaking.

Application by Certain Mexico-Domiciled Motor Carriers To Operate Beyond United States Municipalities and Commercial Zones on the United States-Mexico Border (FAA)
67 Fed. Reg. 12701 (Mar. 19, 2002)
Final Rule.

Special Conditions: Airbus Industrie, Model A340-500 and -600 Series Airplanes; Interaction of Systems and Structure; Electronic Flight Control System, Longitudinal Stability and Low Energy Awareness; and Use of High Incidence Protection and Alpha-floor Systems (FAA)
67 Fed. Reg. 16656 (Apr. 8, 2002)
Notice of proposed special conditions.

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues--New Task

(FAA)
67 Fed. Reg. 19796 (Apr. 23, 2002)
Notice.

Brakes and Braking Systems Certification Tests and Analysis (FAA)
67 Fed. Reg. 20422 (Apr. 24, 2002)
Notice of Issuance for advisory circular and disposition of comments.

International Standards on the Transport of Dangerous Goods; Public Meetings (FAA)
67 Fed. Reg. 21320 (Apr. 30, 2002)
Notice of Public Meetings. Meetings June 18 and June 24, 2002.

Hazardous Materials Regulations; Compatibility with the Regulations of the International Atomic Energy Agency (RSPA)
67 Fed. Reg. 21327 (Apr. 30, 2002)
Proposed Rule.

Environmental Protection Agency

Pesticide Petitions to Establish a Tolerance for Certain Pesticide Chemicals in or on Food (OPP)
67 Fed. Reg. 18894 (Apr. 17, 2002).
Notice.

Office of the United States Trade Representative

Trade Policy Staff Committee; Public Comments Regarding the Doha Multilateral Trade Negotiations and Agenda in the World Trade Organization (WTO)
67 Fed. Reg. 12637 (Mar. 19, 2002)
Notice.

U.S.-European Free Trade Association Mutual Recognition Agreement
67 Fed. Reg. 14762 (Mar. 27, 2002)
Notice and request for comments. Deadline Friday, May 3, 2002.

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5. Submission by Philip Morris International Inc. in response to The National Center for Standards and Certification Foreign Trade Notification No. G/TBT/N/CAN, Feb. 20, 2002, at 4.

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28. *See*, Wallach, Lori, and Sforza, Michelle, WHOSE TRADE ORGANIZATION? CORPORATE GLOBALIZATION AND THE EROSION OF DEMOCRACY, Public Citizen (1999), for a discussion of trade threats that resulted in legislative changes.

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30. Ultra-filtered milk is made when most of the fluid components of milk are removed during a filtration process. Ultra-filtered milk can take two forms: a dry powder, or a thick liquid.

31. Bunting, John and Hardin, Pete, "FDA: MPC Not a Legal Food Additive," *The Milkweed*, Jan. 2001.

32. U.S. General Accounting Office, "Dairy Products: Imports, Domestic Production, and Regulation of Ultra-filtered Milk," GAO-01-326, Mar. 2001, at 26.

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49. H.R. 1016 (107th Congress) Rep. Baldwin et. al. introduced Mar. 14, 2001, S. 117 (107th Congress) Senators Feingold and Kohl, introduced Jan. 22, 2001.

50. Nation Milk Producers Federation, "Government Report on Imported Milk Protein Concentrate Illustrates Harm to U.S. Dairy Producer Sector," News Release, Mar. 6, 2001.

51. *Hoard's Dairy*, Market News, Class I Mover Update, April 24, 2002 available at www.hoards.com/market_news/priceClassI.htm, on file with Public Citizen.

52. *Harmonization Alert* interview with Joaquin Content, May 8, 2002; analysis based on data from National Milk Producer's Federation "Estimated State-by-State Impact of a Cut in the Nonfat Dry Milk Price," Jun. 7, 2001, on file with Public Citizen

53. *Harmonization Alert* interview with Christopher Galen, Apr. 2, 2002.

54. *Harmonization Alert* interview with Pete Hardin, Feb. 6, 2002.

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