The Trans Pacific Partnership: Implications for Supply Management and the Canadian Dairy Industry

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■ Introduction

"Opening new markets and creating new business opportunities leads to jobs, growth and long-term prosperity for all Canadians," noted Prime Minister Stephen Harper in a press release touting the benefits of membership in the Trans Pacific Partnership (TPP)[1]. And the TPP, which represents about 40% of total global gross domestic product (GDP), promises to be one of the largest such agreements ever designed to do just that. The current membership, including Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam, is a potential market of 658 million people with a GDP of US$20.3 trillion. That is very serious money, and the amount is mentioned time and again by those eager to join as if it has some special significance. The Harper government is knocking at the door in part because membership is seen as a way of opening commercial avenues to Asia and in the process diversifying Canada's trade linkages away from the US. Ironically, given this stated intention, Ottawa has promised the Americans that it would be an "ambitious" negotiating partner, which Barrie McKenna believes is code "for a willingness to come to the table with major concessions."[2]

What might some of those be? Early on, one sector that has been targeted by potential TPP partners is supply management for dairy, eggs, chicken, turkey and broiler hens. Indeed, for New Zealand, one of the original four members, dairy supply management as practiced in Canada is immoral as well as outdated. As that country's trade minister, Tim Groser, suggested on 23 November 2011, "Canada follows a policy that many governments used to follow but most have moved forward. It is called supply management. It is completely inconsistent with tariff elimination. We will be looking for clear political signals of a reasonably broad-based understanding that it is not just a matter of turning up at the club and demanding membership." Similarly, the

US thinks the Canadian supply management paradigm is a bad one, at least according to Clayton Yeutter, Washington's former trade ambassador: "Canada needs to address policies in its dairy and poultry sectors that are opposed by the U.S., Australia and New Zealand before it can join TPP."[3]

Whether or not this is the case will only be revealed in the fullness of time. What is certain, however, is that there are perturbations in the force that will at least draw attention to Canada's dairy supply managed sector. Why is that? Primarily, this focus results from particular and peculiar New Zealand dairy arrangements as given substance by Fonterra, its huge farmer-owned cooperative. As well, American negotiators seem to hold special animus for supply management, regarding it as damaging to US dairy interests. Along with NZ, they have resorted to a full court press to get their way.

▪ Fonterra, New Zealand and Opposition to Canadian Entry Into the TPP

As has been noted above, NZ has made its distaste for Canada's dairy arrangements very clear. Apparently, a meeting between Groser and the Canadian minister of Agriculture, Gerry Ritz, did not go well as the two discussed dairy supply management in Ottawa in late 2011. While Groser is "concerned" about supply management generally, he reserves practically all his public comments for the dairy side. Why is that? One can only assume that Fonterra sets policy in Wellington. Indeed, it does appear that while most countries have a dairy sector, New Zealand's dairy sector has a country. Their interests intersected and very quickly in the international environment, the country became the spokesperson for Fonterra interests abroad. At the Organization for Economic Cooperation and Development and at the World Trade Organization, Fonterra's so-called neo-liberal approach met with approbation, much hyped as it was, by NZ trade representatives.

How and why is it that Fonterra has become so powerful in the NZ context? A very brief history of its evolution would be useful. Hugh Campbell, an expert on NZ dairy, has written that "The key historical moments for the evolution of a specific dairy regime … came in the 1920s during the commodity price instability that led up to the Great Depression; in 1973 when the UK entered the European Common Market; and after 1984 when neoliberal reform of New Zealand agriculture sector was faced with significant price instability and the urgent need to secure dairy farm incomes." By the end of the Uruguay round of the General Agreement on Tariffs and Trade (GATT), NZ was able to position itself as a leading supporter of free trade in agricultural products, having forsaken all agricultural support measures. Over the next number of years, it also divested itself of its large monopoly exporting producer boards, including those resident in the dairy sector. However, small farmer-owned dairy cooperatives continued to operate, resistant to the demands of government that they compete with each other. By 2000, through many twists and turns, New Zealand ended up with only two very large dairy co-ops, controlling almost the entire supply of export dairy production. In 2001, Fonterra was born following the amalgamation of these two entities.

But does it really adhere to a neoliberal model? It is here where concerns about NZ and the TPP, and Wellington's strident advocacy for dairy farmer's way of life collide, I believe, with a different reality. As Campbell has pointed out, "to liberalize the New Zealand dairy industry, the government would have had to purchase the shareholding of every dairy farmer in New Zealand and then manufacture an entire private market for the sale of dairy quota. That kind of radicalism may have flourished in the 1980s and early 1990s, but by 2000, the mixed economic results of deregulation in other sectors, together with the economic prosperity of the dairy sector, made further radical reform impossible."[4] In short, the NZ dairy industry *has not* deregulated as the country's politicians and officials would have one believe, but has remained tightly controlled and exclusionist. Fonterra emerged, as Campbell writes, "as the final amalgamated form of multiple mergers and its creation by Act of Government in 2001 signaled a historic compromise between the forces of deregulation and the politics of cooperation."[5] To some extent, it resembles that very beast, supply management, it excoriates, although it certainly does produce for a global market, unlike Canadian dairy. It has also been incredibly successful in what it does, making life financially easier, more or less, for those dairy farmers who belong to the cooperative. It also stands in stark contrast to those other sectors, wool and sheep meat that *did* deregulate in a race to the competitive bottom. That represented a recipe for disaster, which was overcooked in a hot neoliberal oven. And those farmers paid a heavy price.

Following on from this, what is Fonterra's philosophy? In short, it appears that it will do almost anything to have its way in the world of global dairy. The cooperative has:

- Eliminated (nearly) all competition in the NZ supply base for raw dairy product and is using this secure base to launch a very successful internationalization strategy.
- Married its enemies' children.
- Undertaken joint ventures with all the world's largest dairy corporations. Hugely successful innovation in the supply chain and manufacturing processes.
- Used its size to capture specific supply chain expertise, and has become indispensable in key product networks. It also does not have to worry about competition for raw milk in New Zealand, and now controls 32% of cross-border trade in dairy products.

- Farmers are the shareholders and the combination of milk payouts and shareholder dividends has unleashed a “white gold rush” in NZ.

Moreover, as the *New Zealand Farmers Weekly* has noted, "It is pivotal to New Zealand's prospects to basically have a free trade environment that involves [North] America, that involves Europe, so that we can maintain our stable dairy market commodity prices.” In short, given the tremendous importance of dairy to the New Zealand economy – contributing about 8% of its GDP – this impetus for free trade has become the Prime Directive. The reason for NZ participation in the TPP is obvious.

Andrew Ferrier, then-CEO of Fonterra, elaborated on this during an exit interview as he was stepping down from that position in September 2011. He has an interest in supply management, a result of his leadership of Fonterra as well as the fact that he is Canadian by birth and education. In answer to a question about the “limitations” of Canada’s paradigm, he offered that “The reason New Zealand farmers are doing so well is that all safety nets were taken away from them 30 years ago. At that time it was either sink or swim – either the industry imploded or the farmers hunkered down and figured out a way to farm that was far more efficient. That is ultimately what they did in a huge way.” He went on to discuss “Kiwi resilience” and business acumen, and how NZ farmers are the world’s most efficient with, admittedly, a little help from “Mother Nature.”[6] While Ferrier’s response obscures as much as it illuminates, it is an excellent representation of New Zealand thinking on this subject. If their farmers can do it and prosper, then so can all others. Perhaps.

US Dairy Resistance to Supply Management (and to Fonterra)

Given Clayton Yeutter’s musings on supply management, noted above, it would seem that Wellington would have a natural ally in the United States in protesting Canada’s dairy model. However, it appears that there is as significant disagreement between NZ and the US as there is between Canada and those two.[7] Further, Bernard Hickey, a New Zealand financial journalist, has suggested that “American politicians and officials are hypocrites and corrupt liars when it comes to free trade.”[8] As well, the US dairy industry, whose views with respect to the TPP are not well known in Canada, is resolutely opposed to the NZ model as it is to Canada’s. Shawna Morris, the vice president for trade policy at the US Dairy Export Council and the National Milk Producers Federation, has cited Fonterra’s dominance in the New Zealand domestic market as an issue that should be on the table. That industry’s structure was “the most important U.S.-New Zealand dairy topic that should be addressed in the TPP discussions … A situation where one firm enjoys control of almost 90% of the milk supply in the world’s single largest dairy exporting country cannot be viewed as even-handed.”

She also takes aim at the Canadian paradigm, even though Canada is the second most important destination for US dairy exports, behind Mexico and ahead of China, representing about $500 million in annual sales for US dairy – roughly 10% of total production. Clearly, the US Dairy Export Council (DEC) wants to increase that total. Canada's "participation in the talks must be accompanied by a very clear understanding that all trade barriers against U.S. dairy must be eliminated, and is fundamental in gaining the support of the U.S. industry."[9] Indeed, Alan Levitt, vice president of communications and market analysis for the DEC, was more explicit: "The Trans-Pacific Partnership … could open up substantially more exports to Canada if such an agreement ever becomes reality."[10] An extremely interesting and instructive paper prepared for the US International Dairy Foods Association has highlighted the pitfalls (benefits?), at least according to the consultants who undertook the study, of supply management:

The strict farm milk quota system enforced in Canada offers another method for insulating the domestic dairy industry from world price volatility. While the system has reduced, but not eliminated, dairy price volatility in the Canadian domestic dairy market, it has harmed industry growth. A recent study … found that farm milk quotas in Canada led to much higher consumer dairy product prices, lower per capita consumption of dairy products, fewer exports of dairy products and more imports of dairy products.[11]

Little of that is true, but it satisfies the requirements of the research contract. Indeed, dairy prices are significantly lower in Canada than they are in New Zealand and Australia, the home of deregulated production, and per capita consumption has fallen much less sharply that in those countries, as well as in the US. Furthermore, "the average dairy farmer [in Canada] is nearly guaranteed a profit," and that seems heresy to the paper's author.

News reports on an issue like this are always tentative, although there has been some speculation that Canada has had to pledge fealty to the "progress" already made in negotiations. As CBC News pointed out, "as a latecomer, [the country] has had to accept without question all that has already been agreed to by the TPP partners." The prime minister later noted that "There is an accession process, so we don't disrupt the negotiations … We're obviously not going to try to undo what's been done, but these negotiations in our judgment are at fairly preliminary phases right now."[12] That remains to be seen, of course, now that Canada has participated in its first full round of negotiations in Auckland, NZ in December 2012. Incidentally, Ottawa's involvement comes after 14 rounds of hard discussion where much has been decided, dating back to early 2009.

The December meeting was almost somnolent. This could be expected when parts of the senior administration of the largest negotiating partner, the US, will change as of 21 January 2013. A new trade representative could well be appointed at that time, and Ron Kirk, the former Dallas mayor and corporate lobbyist, could fade into history. However, even given this, there is some doubt that a TPP, at least one of the type envisaged by its advocates, will result from all this sound and fury. Another negotiation is in the process of ramping up – the so-called ASEAN + 6 group. At the 21st Association of Southeast Asian Nations summit in Phnom Penh, Cambodia, it was decided to begin discussions on a new trade agreement, to be called the Regional Comprehensive Economic Partnership. It would be comprised of the ASEAN bloc countries plus Australia, China, India, Japan, New Zealand and South Korea. That is a group with some heft, and no United States. This negotiation would link an integrated market of more than 3 billion people with a combined GDP of around US$20 trillion, with almost unlimited potential to grow. This certainly combines favourably with the TPP's US$20 trillion and population of only 658 million. It is also doubtful that countries like Australia and NZ have the bureaucratic firepower to conduct complex and complicated negotiations on two fronts.

However, internal Trans Pacific Partnership politics aside, how have free trade agreements generally affected citizens? Is trade under these FTAs really free? Have they advanced the cause of transparency, openness and democratic decision-making? I would argue that they have not. As Matt Stoller, a fellow at the Roosevelt Institute has eloquently put it, the policy of governments pursuing free trade agreements "can best be characterized as making the world an easier place to do business for multinational corporations."[13]

Further, it would appear that the US is not all that interested in what might be construed as "real" free trade, especially in agricultural commodities – this explains in part the demise of the WTO's Doha round as Brazil, India and China, in particular, rejected American negotiating strategy with respect to agricultural commodities. Daniel Sumner and Joseph Balagtas have written about the role of protectionism in US dairy policy, pointing out that "Trade barriers are arguably the most important feature of US dairy policy."[14] As well, the United States has a variety of means to support that industry, including: dairy product price support; federal milk marketing orders; direct payments under the Milk Income Loss Contract Program; the Dairy Export Incentive Program; and tariff-rate quotas on dairy imports. While Washington may object to others' programs of support, it is not without its own issues to which those others may also object.

▪ The Canadian Case and Free Trade

As has been clear, both Americans and New Zealanders strenuously protest Canada's system of supply management in dairy. Likewise, Washington is critical of Fonterra because it controls 92 percent of the NZ supply that puts it in a monopolistic position in that country, while New Zealand does not like the

US because of its widespread use of dairy support mechanisms. So, what of Canada? Canadians could support the arguments of both. Fonterra does have unnatural advantages while the United States has never regarded the results of trade negotiations as being particularly worrisome. Canadians also express a skepticism about the virtues of free trade, at least when it comes to certain agricultural commodities like dairy. For example, as the Stettler, Alberta *Independent*, a local newspaper in that province, noted, the free market referred to by its advocates "would be the same system that has off and on impoverished farmers and ranchers of other commodities on a roller coast ride of prices. It has also hatched a never-ending litany of government support programs designed to bail out producers with taxpayer's money from the tyranny of the free market."[15] If this can be written in conservative Alberta, it must be the case that the benefits of the practice have not been equitably spread across the province.

The term "free trade" is not a useful one as it only describes commerce that emanates from a multinational corporation. Indeed, labour remains geographically bound. It also implies that the opposite must be trade that is captured and imprisoned, which cannot be good. Moreover, why is it that we, as a society, place such value in free trade? It has driven policy for the past 60 years, through the GATT/WTO as well as through the IMF and the World Bank. Certainly, on one level free trade does enhance a country's GDP. Canada, for example, has seen a tremendous increase over the past decade. In 1994, the year the North American Free Trade Agreement went into effect, it was about $564 billion; in 2000, it reached $725 billion, while by 2010, the country's GDP had climbed to almost $1.6 trillion. While all of this increase is not due to free trade agreements, or freer trade, governments tell us that free trade has been beneficial, and usually cite versions of these numbers. However, Canadians do not perceive it to be so. The angst demonstrated as a result of increasing inequality, declining incomes for the middle class and wretched employment possibilities on the part of youth have increased wariness of free trade. Certainly, the Canadian Index of Well-Being (CIW), a measure housed at the University of Waterloo, reflects that. It tracks 64 separate indicators within eight interconnected domains central to the lives of Canadians including: Community Vitality; Democratic Engagement; Education; Environment; Healthy Populations; Leisure and Culture; Living Standards; and Time Use. The following graph, on the CIW website, demonstrates the disconnect between a rising level of GDP and Canadian's declining sense of well-being (Figure 1). This suggests that current free trade negotiations may not be as uncontroversial as they have been, by and large, in the past.

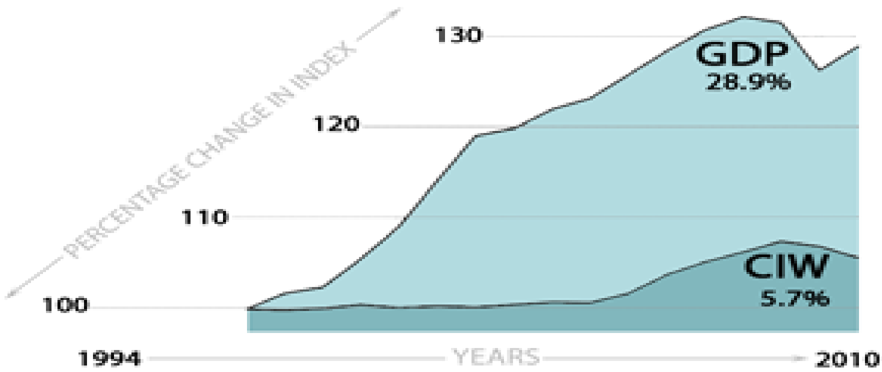

Figure 1: Disconnect between a rising level of GDP and Canadian's declining sense of well-being.

▪ The Benefits of Supply Management

Other than the obvious irritation aroused on the part of some of our trading partners by Canada's dairy management model, is there any good reason as to why it should be fundamentally altered? Not on price or efficiency or sustainability. As is well known, the number of Canadian dairy farms has fallen dramatically over the past 60 years, to the present roughly 12,500 that operate in this country. Using the example of Ontario over the period from 1970 to 2000, the number of active dairy farmers dropped by 84% while the *volume* of milk produced increased by 515%. Moreover, the average size of a Canadian farm is 74 cows, which represents an eminently sustainable number. These concerns remain a *family* farm that is critical for the survival of small towns in many parts of the country. Price is also reasonable, guaranteeing as it does a fair return to the producer, as well as a sensible price to the consumer. The stories of Canadians out-shopping in the border communities of Bellingham, WA or Niagara Falls, NY are legion. However, are these cities representative of milk prices in the US? The quick answer to that is "no." On average, the US Bureau of Labor Statistics calculates that a gallon of milk in September 2012 cost shoppers about US$3.51. That is cheaper than what I pay at my local Foodland in Elmira, Ontario, but not *that* much cheaper. I pay CAN$4.19 for four litres. Is a drive to Bellingham or Niagara Falls, NY worth 68 cents?

Further, supply management does provide a living income for farmers, unlike the case with their counterparts elsewhere. Some influential critics do not agree with this proposition. For example, John Winter, the president and CEO of the BC Chamber of Commerce, has suggested that dairy industry concerns are not significant in the bigger picture, and that supply management is yesterday's solution: "I think what we're seeing happening in Bellingham [with British Columbians buying dairy products] at the Costco is probably the best example of why they don't work: the fact [is] that our milk is overpriced and it's a monopoly, [and] that's probably not in the best interests of consumers." But is consumer interest the only calculation to consider? In fact, Canadians, on average, spend about 9.6% of their after-tax income on food, one of the lowest figures in the world. As Hugh Campbell has suggested, there are successful models where both farmers *and* consumers win, and supply management is one of them. It is far too easy, given the rhetoric and constant media attention on higher Canadian milk prices for consumers to believe that only their interests count. It is important not to be drawn into the "one size fits all" model where the only winner is the global consumer, and not the producer.

And what of the price situation in NZ, that repository of neoliberal activity, the model toward which so many critics of Canada's supply managed system are drawn. The price of two litres in New Zealand supermarkets is much higher than the equivalent amount in Canada and the price continues to rise; the *Waikato Times* in its 16 February 2011 issue noted that two litres of milk at the NZ supermarket, Countdown, cost and outrageous NZ$4.80, or CAN$3.98! Fonterra's then-chief executive Andrew Ferrier is quoted as calling that price "the new normal." Over the five years since 2007, NZ milk has increased in price by 50% as new consumers in China, India and Indonesia have increased demand for the commodity, and Fonterra has moved heaven and earth to provide it.[16] Population anger drove Wellington to strike a Parliamentary select committee to investigate milk prices in mid-2011.[17] When asked whether Fonterra set the price of milk in New Zealand, Andrew Ferrier replied: '"Absolutely not. The world market sets the price. All we do is run a milk price that converts the world market price to the New Zealand equivalent."[18] As he later noted, "While these prices are good for food exports and the New Zealand economy, New Zealanders are feeling the effects of this in their shopping trolley."[19] The result was frozen milk prices throughout 2011, and much lost income by farmers.

Ferrier has also suggested that the global milk market is consuming increasing volumes and that that situation will only get better, at least for dairy farmers. As he put it, "[global] demand [for milk] now is so all encompassing and strong, there is opportunity for everybody." In this context, with revenues to be made by those willing to enter into the "free" trade in milk products, supply management is archaic. However, his assertion about "opportunity for everyone" is clearly wide of the mark. Witness the "1,000 tractors to Brussels" demonstration of November 2012 as dairy farmers from all over Europe marched on the EU capital and fought with Belgian riot police. That reflected a dismal dairy situation on the continent as a study prepared for the European Milk Board (EMB) clearly demonstrated. It found a "huge gap between production costs incurred and the prices producers are paid."[20] The Board regarded "a farm-gate price of 50 cents a kilo of milk to be essential. Last year, however, the average price in Germany was 31.50 cents/kilo milk." As well, German dairy cows churned out 29.3 million tonnes of milk – the most ever produced. This has "put the dairy industry under pressure," according to Hans Foldenauer, spokesperson for the German Federal Dairy Farmers Association. The problem of no markets is made worse by the fact of deteriorating farm-gate prices. Indeed, the situation has gotten appreciably worse, given the supermarket predilection to favour consumers over producers: Milk prices have dropped in Germany as discount supermarkets have cut the price of fluid milk by 6% and that of a block of butter by 14%. As Alexander Bonde, the head of the *AgrarMinisterKonferenz*, which represents industry as well as state and federal agriculture ministries, noted, "the irresponsible price battles of discount supermarkets are ruining Germany's farms and rural areas."[21] Does Ferrier know? Clearly, this situation does not happen with supply management.

So why is supply management even on the table given its obvious sense, rationality and discipline? Clearly our negotiating partners see an advantage for themselves if the model disappears. In the case of those international organizations, and especially the WTO, concerned about continuously freer trade for whatever reasons, ideology is at work. We live in a world increasingly free of public intervention and regulation – of any sense of the "public good." The financial crisis in 2008 is a reflection of that. Everywhere, the private sector with the help of various national governments, the WTO and the Organization for Economic Cooperation and Development, has established its own mechanisms for regulating both upstream and downstream activity. For example, GlobalGAP is a private sector food certification agency that is controlled by European and American supermarkets including Tesco (UK), Carrefour (France) and Walmart (US) and which, according to its website, has "400 certified products and over 130,000 certified producers in more than 110 countries." This is the solution the WTO and OECD desire; the private sector as fallback. Ideology interferes with sound reasoning. In the neoliberal world in which we live, focused as it is on privatization, deregulation, free trade and open markets, and the withdrawal of government from polite discourse, supply management is a bad example to set. Indeed, WTO/OECD ideology is the only reason it seems to me, for considering a return to the 1950s, when "market discipline" was all the rage among those who stood most to profit from it. As Will Verboeven has pointed out, "Even in free enterprise Alberta, our own [former] Minister of Agriculture, Jack Hayden, has mused that perhaps supply management is a pretty good time-tested approach. If the never-ending parade of support programs are any indication maybe a back to the future approach is in order. Learning from past successes is generally better than learning from future failures."

▪ The Trans Pacific Partnership?

I opened this paper citing Prime Minister Harper's paean to the TPP in June 2012. It is in this forum that Canada is supposed to (made to?) sacrifice dairy supply management on the altar of the economist's "rational man." My conclusion is that that will not happen and that dairy farmers need be little concerned by the TPP. As I have suggested throughout, the difficulties of negotiating such an agreement are too onerous for those involved to contemplate them with equanimity. Further, the Americans *will not* give up their agricultural subsidy regimes, in the process turning their backs on almost 60 years of US policy. For its part, New Zealand is under intense American pressure to liberalize sectors of its economy that it wants to protect, like pharmaceuticals. Fonterra's demands may well fall on deaf ears if the National Party believes continuing to negotiate is a losing proposition. Australia, meantime, is still working through the fall-out of its bruising free trade negotiation with the US that came into effect as of 1 January 2005. Canberra is less than enamoured of the result and is being much more careful this time around. Further, as one critic has noted, the United States "already has free trade agreements with six of the 10 countries in the TPP; Peru, Chile Australia, Singapore, Canada and Mexico. Together, they comprise 90% of the combined GDP of the prospective TPP bloc. Of the rest, only Malaysia, at 28 million people, and Vietnam at 87 million, are significant in terms of economic size. New Zealand has just 4.4 million people, and Brunei has only 405,000. So the TPP is not a significant enlargement of America's actual trading relationships … As one person who has seen the agreement told me, "I have no idea what they think they are doing, it seems kind of dopey. This is like rearranging the food on your plate."[13] The incentive to realize an agreement will surely dissipate in Washington, given this correct assessment, as difficulties prove to be intractable. As well, the announcement of the Regional Comprehensive Economic Partnership is surely a fly in the TPP's ointment. Perhaps the parties to both realize that, following 15 rounds of negotiation with no end in sight, an alternative is a more fruitful use of resources. Finally, Canada's Harper government continues to support supply management despite the best efforts of critics to dislodge it from that position. The NDP and the Liberals do likewise. All realize that it is an incredibly functional system with no cost to Canadian taxpayers. The fact that 100% of Canadian dairy farmers are similarly attracted by supply management means that the situation is not at all similar to that characteristic of the old Wheat Board, where support was much less solid. Dairy supply management, Canada's rational, sane and reasonable system, is, I believe, here to stay.

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