National Grain and Feed Association
NGFA

NAEGA
North American Export Grain Association

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To: Office of the U.S. Trade Representative

From: North American Export Grain Association and National Grain and Feed Association

Date: October 22, 2013

Re: Doc. USTR-2013-0027; Request for Public Comments Regarding the National Trade Estimate Report on Foreign Trade Barriers

The North American Export Grain Association (NAEGA) and National Grain and Feed Association (NGFA) appreciate the opportunity to submit these comments in response to the request of the Office of the U.S. Trade Representative as part of its 2014 National Trade Estimate Report on Foreign Trade Barriers.

NAEGA, established in 1912, is comprised of private and publicly owned companies and farmer-owned cooperatives involved in and providing services to the bulk grain and oilseed exporting industry. NAEGA member companies ship virtually all of the bulk grains and oilseeds exported each year from the United States. Dedicated to engaging the entire value chain, NAEGA focuses on predictable, reliable and expanded international trade of grains, oilseeds and their primary products. NAEGA members, stakeholders and governments around the world are key beneficiaries of NAEGA work to provide leadership, experience and capacity, providing for global reach and influence supportive of international trade and investment.

The NGFA consists of more than 1,000 grain, feed, processing and grain-related companies that operate 7,000 facilities that store, handle, merchandise, mill, process and export approximately 70 percent of all U.S. grains and oilseeds. Also affiliated with the NGFA are 26 state and regional grain and feed associations. NGFA works to foster an efficient free-market environment that produces an abundant, safe and high-quality supply of grain, feed and feed ingredients for domestic and world consumers. NGFA strongly supports aggressive pursuit of free-trade principles through the World Trade Organization (WTO), as well as bilateral and regional free-trade agreements that foster the goals of global trade liberalization.

At the outset, NAEGA and NGFA appreciate and commend USTR for its ongoing and effective work in support of trade.

NAEGA and NGFA wish to bring several trade barriers to USTR's attention that impede and disrupt agricultural trade, the most egregious of which involve sanitary and phytosanitary (SPS) and technical barriers to trade (TBT). We very much look forward to working with USTR to addressing these trade challenges. We also eagerly anticipate the opportunity to provide further input in conjunction with the agency's NTE report on two upcoming reports addressing additional trade barriers – one on SPS measures and one on standards-related measures.

However, one concept NAEGA and NGFA believe should be applied to all barriers to trade – including those categorized as SPS and TBT – involves implementation of a Rapid Response Mechanism (RRM). A RRM should include the following two mandatory mechanisms providing for acceptance of shipments:

- First a process involving <u>immediate, detailed notification</u> to the importer or exporter of record (shipper or consignee) of actions taken by the official governmental body regarding the detection, assessment and management measures related to a given shipment. Such notification by the competent governmental authority should detail the methodology used, the findings, the enabling authority under which the action has been taken, and the recourse or compliance measures available to the importer or exporter of record to resolve the matter. We believe such notification should be issued by the official governmental body within three days of receiving a request by either the importer or exporter of record. Further distribution of the notification should be at the option of the requesting party. In addition, the notification potentially provide an opportunity for further review of the actions taken, as well as options available to the importer or exporter of record to take corrective actions acceptable to the relevant official body that may support or mitigate the action.

- Second an expedited review of official actions taken at the request of the importer or exporter of record in response to the governmental notification. The expedited review would be conducted by neutral experts previously identified by parties to the trade agreement. The review, completed in a few days, would result in a non-binding, public recommendation (business-confidential information redacted or deleted). A precedent for such action exists within the WTO. The immediate detailed notification may be provided as background for the expedited review.

In addition, NAEGA and NGFA would like to highlight and encourage action on the following types of foreign trade barriers listed in USTR-2013-0027, namely "Import policies (e.g., tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers)":

- **Argentina:** In collaboration with the National Oilseed Processors Association (NOPA) and American Soybean Association (ASA), NAEGA already has submitted comments regarding Argentina's differential export tariffs (DETs). These DETs are imposed on soybeans and soybean products to promote the Argentine soy crushing industry. Despite being only the world's third largest soybean producer (behind the United States and Brazil), DETs have enabled Argentina to become the world's largest manufacturer of soybean oil and meal. If the U.S. soybean industry did not have to compete with Argentina's DETs, U.S. exports of soybean products could be significantly higher.

- **Brazil:** Tariffs imposed by Brazil on feed grains, oilseeds and co-products of grains and oilseeds mostly range from 6 to 10 percent. These tariffs often put U.S. products in a non-competitive position because duty-free access is accorded to *Argentina and other Mercosur members*. Were Brazil to apply duty-free access to all WTO member countries, the United States could develop a more robust export market there.

- **China:** In many respects, China is the most significant market for U.S. grains and oilseeds, which warrants a focus on China's Value Added Tax (VAT) regime. The VAT on grains and oilseeds and their primary products ranges from 13 to 17 percent, depending upon the product being imported. The VAT on soybeans is 13 percent. The VAT on grains and oilseeds has had the same effect as imposition of an additional tariff, and does not apply to crops grown in China. The fact that these VATs apply to imported – but not domestically grown – product suggests China is violating its National Treatment Obligation (NTO) under the WTO.

- **Turkey:** As articulated in the Oct. 18, 2013 comments submitted by U.S. Wheat Associates, Turkey has not provided notification to the WTO of its domestic support spending since its 2001 harvest. NAEGA and NGFA are very concerned that Turkey has violated product-specific subsidy limits on wheat, corn, rice, soybeans and other agricultural products during this interim period. Turkey needs to be transparent and urged to submit timely notifications. It's AMS spending needs to be carefully monitored, and we urge U.S. negotiators to address this issue through the WTO.

  Further, Turkey currently applies an import tax of up to 130 percent on all wheat – effectively allowing the domestic price to exceed international prices. The import tax level varies each year based upon domestic production levels. In Turkey, flour exporters are entitled to import duty-free wheat when flour is exported. Thus, it appears that Turkey's protectionist policies effectively result in subsidized flour sales. At current domestic and import prices, flour exports from Turkey can be priced at well-below market levels, resulting in cheap flour sales that adversely affect wheat exporters from all origins.

  Of most concern is that Turkish flour routinely has been arriving in the Southeast Asian countries of Indonesia and the Philippines at prices lower than other flour exports to the Philippines and the domestic price of flour in Turkey. Imports of Turkish flour by the Philippines rose to a wheat equivalent of 235,000 metric tons in calendar year 2012. In wheat marketing year 2012/13, Turkish flour exports to Indonesia reached the wheat equivalent of 262,500 metric tons. Turkey's flour export policy, including its inward processing regime, needs to be examined, as it results in trade-distorting export flows and a loss in U.S. wheat exports. Turkey has an obligation under the WTO Agreement on Subsidies and Countervailing Measures to maintain a verification system related to the use of the IPS, tracking *inter alia* how much product is imported and exported under the system, and the extent to which domestically produced wheat is substituted for imported wheat under the system. We have found no evidence of such a system. If Turkey does not maintain such a verification system, it is in violation of WTO rules and should be held accountable.

Agricultural trade is a critical component of U.S. and global economies and food security. And least-trade-distortive, sound, responsible, predictable commercial and official measures are necessary to facilitate critical movements of grains and oilseeds from points of surplus production to needy consumers.

With an increasing population and a larger number of people able to improve their diets and buy more food, we foresee greatly expanding demand for U.S. agricultural products. Pressure has never been greater on agriculture to provide for global food security, food defense and energy security while maintaining high quality, safe products throughout the value chain. The role of international trade in bulk agricultural commodities is expanding and increasingly complex.

NAEGA and NGFA look forward to continuing to work with USTR to achieve increased trade liberalization and increase U.S. exports. If we can provide any further information, please feel free to contact us at your convenience.

Sincerely,

Gary C. Martin

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North American Export Grain Association

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