



National Grain and Feed  
Association



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**To: Office of the U.S. Trade Representative**

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

**Date: November 15, 2013**

**Re: Doc. USTR-2013-0033; Request for Public Comments to Compile  
the Report on Sanitary and Phytosanitary Measures**

The North American Export Grain Association (NAEGA) and National Grain and Feed Association (NGFA) appreciate the opportunity to submit this joint statement in response to the request of the Office of the U.S. Trade Representative as part of its 2014 Report on Sanitary and Phytosanitary Measures.

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.

NAEGA and NGFA appreciate and commend USTR for its ongoing and effective work in support of trade. Agricultural trade is a critical component of U.S. and global economic growth and food security. 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 world 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 and energy security, while maintaining safe, high-quality products throughout the value chain. The role of international trade in bulk agricultural commodities is expanding and increasingly complex.

NAEGA and NGFA thank you for this opportunity to share our concerns related to official sanitary and phytosanitary regulations and practices (SPS measures). In this statement, we convey our global perspectives on SPS measures before delineating more specific issues that we believe should be addressed.

**Worldwide:** NAEGA and NGFA believe **SPS measures constitute the most trade-disruptive**, rapidly increasing and most difficult-to-mitigate actions being taken by world governments to distort the free flow of trade. The efficiency and timeliness of food and agricultural imports and exports frequently are frustrated by official governmental actions related to SPS measures. Appropriate efforts to eliminate unnecessary delays and actions that disrupt or prevent international movement of critically important and perishable agricultural products for food, feed and further processing are needed. Hence, for all cross-international boundary shipments of agricultural products, NAEGA and NGFA believe a Rapid Response Mechanism (RRM) should be deployed by world governments. A RRM should include the following two mandatory mechanisms providing for facilitation of trade acceptance of shipments:

- First a process involving immediate, detailed notification 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 should provide an opportunity for further review of the actions taken by a respective government, 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, upon request of the importer or exporter of record, regarding official actions taken 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 to our strong encouragement for the deployment of an RRM, NAEGA and NGFA wish to highlight and encourage effective engagement in the next year to provide for the least-trade-distortive, science-based approach to the following SPS measures:

Concerning **plant quarantine and protection measures**, the [Commission on Phytosanitary Measures \(CPM\)](#) – the governing body of the International Plant Protection Convention (IPPC) – under its authority to provide for [International Standards for Phytosanitary Measures \(ISPMs\)](#), has undertaken work on a standard for the international movement of grain (2008-007). We are concerned that the establishment of this standard will lead to unnecessary and new barriers for trade of affected agricultural products. In particular, some provisions would broaden the scope of this international standard to include requirements, such as traceability, that provide no tangible improvement in related risk management, while greatly increasing risk and the cost of trade.

With respect to **agricultural biotechnology** and its use in crops, we find asynchronous approvals of biotechnology-enhanced products pose the biggest challenge to the marketability of such crops in several key markets for U.S. grains, oilseeds and their primary products. This issue is exacerbated further by the lack of a practical approach to low-level presence (LLP) policies globally. Asynchronous approvals and the lack of trade-facilitating policies, such as LLP, impose burdens on the U.S. value chain and have led to delayed biotech product launches and trade disruptions. Ongoing analysis reveals more than 25 countries are deploying SPS measures tied to the innovation of biotechnology in crops that result in serious and unnecessary restrictions in trade.

In this regard, China is a dominant concern holding significant leverage over the U.S. value chain because of its increasing demand and unique regulatory approach that creates a significant time gap (asynchronous approvals) between governmental approvals of new biotech-enhanced traits between China and the United States.

A second major global influence comes from EU regulation of crop biotechnology that either restricts or prevents trade in grains, oilseeds and their derived food and feed products. The EU approach to the authorization of biotechnology – a mandatory labeling requirement for products produced from GMO crops and its “technical solution” for yet-to-be authorized biotech events in feed (and not food) – all combine to impose inappropriate and impractical restrictions, including outright bans, on imports to the EU of U.S. grains, oilseeds and derived products.

Biotechnology regulation and labeling requirements in Korea and Turkey also are a significant challenge and warrant timely attention from USTR in the short term.

NAEGA and NGFA also wish to raise the following SPS-related issues with respect to Canada and Mexico:

- **Canada:** Canada is in the process of revising many official measures intended to provide for management of phytosanitary risks inherent in imported agricultural products.

A key concern for NAEGA and NGFA is the unnecessarily trade-restrictive approach of Canada’s designated plant protection and quarantine authority to phytosanitary certification for agricultural products originating in the United States and shipped from Canadian ports.

In addition, we are concerned with the approach the Canadian Food Inspection Agency (CFIA) has taken in CFIA directive number D-12-05. This directive has been in the process of being revised for more than a year. D-12-05 places new phytosanitary import

requirements for grains of field crops, including pulses, oilseeds, cereals (other than barley, oats, rye, triticale, and wheat), forages and other specialty crops from the continental United States and is starting to be implemented.

- **Mexico:** Now that the North American Free Trade Agreement (NAFTA) successfully has eliminated relevant tariffs and quotas, NAEGA and NGFA are very concerned SPS measures implemented by the Mexican government unnecessarily restrict and frustrate imports of U.S. grains, oilseeds and other crops shipped in bulk modes of transport. Generally, Mexico's procedures and regulations are implemented through opaque, unpredictable and inconsistent ways at border crossing points. For example, Mexico's SENASICA recently has deployed an extreme approach to management of soil residues in grain shipments from the United States that has not met its obligations to provide notice and to avoid arbitrary or unjustifiable SPS measures. Specifically, SENASICA now has formulated "Version 05, Modification 05 of Guideline 01: GENERAL GUIDELINES FOR THE INSPECTION AND CERTIFICATION OF SAGARPA'S REGULATED MERCHANDISE FOR COMMERCIAL IMPORT PURPOSES" via a draft "*Procedure for entering imported grain and seeds (except those for sowing) in the event of detecting soil during phytosanitary inspections at the port of entry*" in a manner that lacks appropriate risk assessment, notice and transparency. This SPS measure greatly increases cost and risk in shipment of U.S. agricultural products to Mexico, and fails to provide for the least-trade-distortive approach to meeting its plant protection needs.

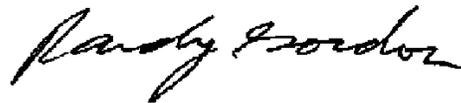
Ultimately, NAEGA and NGFA are committed to advocating increased system integrity, predictability and reliability – all of which are tied closely to progress in addressing these and myriad other SPS measures that plague our industry. Consistent and notified requirements that enable markets to trade products and provide for proportionate and effective risk-mitigation and risk-management are a key to U.S. interests. Appropriate measures that allow grain systems to *maximize the value* of the grain product and *minimize inefficiencies and handling costs* associated with the supply chain, while still meeting credible plant-protection needs, are fundamental to effective access to a growing world market.

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

Sincerely,



Gary C. Martin  
President and Chief Executive Officer  
North American Export Grain Association



Randy Gordon  
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National Grain and Feed Association