



***Working Together to Make Trade Work***

***Submitted Electronically***

July 26, 2017

To: Secretaría de Economía  
Dirección General para América del Norte  
Plaza Juárez No. 20, Piso 18  
Col. Centro, Deleg. Cuauhtémoc, C.P.  
México, Ciudad de México

Dear Reviewing Officials:

The North American Export Grain Association submits this statement in response to the request for consultations on the renegotiation and modernization of the North American Free Trade Agreement (NAFTA) as requested by the Secretaría de Economía. These comments seek to inform Secretaría de Economía on the North American grain and oilseed trade's views on new areas that should form part of a modernized NAFTA agreement.

NAEGA, a not-for-profit trade association established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA-member companies ship and support the vast majority of the highly competitive, sustainable and fungible North American grain and oilseed export supply. NAEGA works collaboratively around the world to improve and maintain the trade of grains, oilseeds and other agri-bulks by informing industry and addressing both commercial and official practices.

NAEGA was founded over one hundred years ago by members of the North American grain trade interested in promoting and sustaining the development of commercial trade of grains, oilseeds and their primary products from North America. Today, NAEGA has over forty members and associate members with operations and assets in Mexico, the United States and Canada.

What brought NAEGA's members together over one hundred years ago was an enduring commitment to promoting trade within and from the North American continent. Since that time, North America has become one of the most competitive export markets for grains and oilseeds in the world, reaching customers on six continents. In addition, inter-continental trade has flourished since the ratification of the North American Free Trade Agreement in 1994. Since that time, the unification of the United States, Canadian and Mexican markets has led to the development of strong bilateral trade ties and mutually beneficial supply chains that move



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product from areas of surplus to areas of deficit across the continent. Today, the United States' biggest export markets are Canada and Mexico, and Canadian and Mexican firms currently rank behind only China in share of imports into the United States. Meanwhile, nearly half of all Mexican imports come from the United States, and over 80 of all Mexican exports travel north across the border.

This successful trading relationship is a testament to the success of NAFTA. Implementation of the agreement has led to the elimination of nearly all grain and feed tariff barriers that previously restricted U.S. access. Lifting of these barriers has also encouraged NAEGA members to invest in strategically located physical plants and logistics to facilitate the efficient sale of agricultural products. These strategically planned business investments have reduced transportation costs and integrated supply chains, allowing goods to flow more easily north and south, ultimately benefiting both U.S. and Mexican consumers.

The resulting environment has created an integrated marketplace for agriculture products that promotes consumer choice and encourages regional specialization that leads to efficiencies and enhanced productivity. For example, today, Mexico receives 98 percent of its total corn imports from the United States and U.S. corn makes up over one-third of the Mexico's total corn consumption. Part of this consumption is used as feed for Mexican ranchers, whose cattle are often born in the State of Chihuahua and transported across the border into the United States for finishing. This cooperation allows Mexican and American ranchers to integrate and specialize in particular market segments while being assured that supplies of feed for their herds will be readily available across jurisdictions along the supply chain.

As the Government of Mexico begins work with its partners in the United States and Canada to modernize the NAFTA agreement, we ask that negotiators first recognize these enduring successes and endeavor to "do no harm" during negotiations by preserving all current market access gains for U.S. and Canadian companies and consumers.

In addition, we ask that the negotiating partners consider sensible and trade promoting efforts to modernize the NAFTA agreement and promote the continued success of the North American grain and oilseed industry. Over the last 23 years since NAFTA took effect, economies, markets, technologies and supply chains have evolved immensely. This evolution has created a new set of 21<sup>st</sup> century challenges to facilitating trade within the North American marketplace. Chief among these challenges is the growing number of non-tariff barriers that distort and slow cross-border trade flows. Given the opportunity to modernize NAFTA, we urge the Mexican Government to make the accord more effective in preventing technical, sanitary and phytosanitary (SPS) barriers to trade, encouraging higher levels of regulatory cooperation, transparency and professionalism, and promoting the convergence of standards and rules to level the playing field and ensure against unjustified, unscientific and discriminatory regulatory initiatives.



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In particular, we believe NAFTA partners and the Government of Mexico should work together to address the following impediments to facilitate trade in North America:

- 1. Actions at Import:** Import checks on cross-border shipments of individual containers or consignments may present a major barrier to trade in agricultural commodities. When they occur, checks can result in expensive delays. Goods may be subjected to inspection, or may even be rejected, without apparent scientific justification.
- 2. Science and Risk Analysis:** Many SPS-based import bans and restrictions do not conform to the applicable regional and international standards and the promulgating authority often fails to provide a science-based risk assessment as required under the World Trade Organization's SPS Agreement. U.S. negotiators should negotiate to include provisions that effectively force the timely completion of sound risk assessments, with adequate opportunities for comment by the public.
- 3. Transparency Provisions:** Agricultural traders often are kept in the dark about the basis for measures that restrict movement of agricultural products based on alleged SPS and technical barriers to trade (TBT) grounds. All requirements – including those cited previously – should explicitly require disclosure and should be made available to governments, as well as commercial parties, prior to implementation. U.S. negotiators should pursue clear and transparent timelines for disclosure and resolution of adverse import checks that prevent or delay import shipments. Further, regulatory authorities should be encouraged to follow transparent and predictable regulatory timelines with adequate opportunity for comment and critique of new regulatory measures.

In addition, we believe a modernized NAFTA provides the opportunity to include language to increase transparency and cooperation on activities related to modern agricultural production technologies, including seed-breeding innovations, improving upon provisions agreed to in the Trans-Pacific Partnership negotiations.

To address the aforementioned concerns and issues, NAEGA believes negotiators should pursue 21<sup>st</sup> century, WTO-plus negotiating objectives in a renegotiated NAFTA that include the following:

- Maintaining and expanding all market access, tariff concessions and other provisions that have enabled economic integration in the North American marketplace and supply chain over the last 23 years.
- Creating a rapid response mechanism (RRM) that enables the timely and transparent resolution of adverse import checks by importing country customs and plant protection authorities. An RRM should include immediate and detailed notification of the importer or exporter of record within ***three days*** of any risk- detection, assessment and



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management measures. Further, an RRM should mandate expedited review processes, at the request of the importer or exporter of record, that are completed within 15 days. A properly functioning RRM will increase reliability, reduce risk premiums sometimes associated with agricultural trade, and avert costly demurrage and trade inefficiencies that result when U.S. agricultural exports are detained at customs and border crossings in importing countries.

- Enhancing science-based SPS rules that: promote the adoption of testing procedures based upon international laboratory standards; require export and import checks be carried out “without undue delay”; require documentation of the frequency of import checks and demonstration of the risk factors that justify the import check; and provide for mechanisms to resolve adverse import checks.
- Adopting risk-management and risk-assessment procedures that prevent the use of non-tariff barriers that lack scientific merit. Risk-assessment and risk-management procedures should take into consideration reasonably available and relevant scientific data, and should not be more trade restrictive than required to achieve SPS objectives.
- Promoting regulatory consistency and cooperation provisions. Such provisions should encourage the adoption of widely-accepted good regulatory practices and core principles such as transparency, impartiality and due process, as well as coordination across governments to ensure coherent regulatory approaches. The stated objectives should be to provide globally effective measures that eliminate trade-distortive policies and reduce bureaucratic impediments to trade, and that foster trade-facilitative official practices and regulations for which NAFTA-member countries are held accountable. One mechanism for achieving this may be to formally include within NAFTA references to bilateral and trilateral regulatory cooperation bodies including, but not limited to, the regulatory cooperation councils, high-level regulatory cooperation councils, technical committees and cooperative technical consultative bodies that currently exist on an *ad hoc* basis. If doing so, however, NAEGA and NGFA recommend that the updated objectives cited above concerning enhancement of trade-facilitative measures and removal of bureaucratic-related impediments to trade should be included as a specific charge for such bodies within the NAFTA text.
- Strengthening efforts to address TBT matters, including through the promotion of transparency and good regulatory practice, convergence or mutual recognition of regulatory standards, and the adoption of no less favorable treatment to national conformity assessment bodies.
- Increasing transparency and cooperation on activities related to modern agricultural production technologies, including seed-breeding innovations. In this regard, NGFA and NAEGA fully support the separate statement being submitted by the U.S. Biotech Crops



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Alliance, which calls on U.S. negotiators to include in NAFTA: 1) a mutual recognition agreement concerning the safety determination of crops intended for use as food, feed and/or for further processing; and 2) development of a consistent approach for managing low-level presence (LLP) of products that have undergone a safety assessment and are approved for use in a third country, but not yet approved for import by a NAFTA-member country.

- Enabling innovation of information technologies to improve logistics and regulatory implementation and to facilitate trade. NAFTA members should be encouraged to recognize electronic signatures and certifications wherever possible and support the electronic exchange of official trade documents including, but not limited to, bills of lading, origin certifications, quality certificates and SPS certificates.
- Ensuring safe, orderly and secure passage for rail and truck freight transportation within NAFTA-member countries.

As the parties move forward with negotiations, we encourage the Government of Mexico and the Secretaría de Economía to work together with their U.S. and Canadian counterparts to identify areas of mutual interest and understanding. Considering the constrained political calendar, NAFTA partners should move quickly to address non-controversial issues in a quick and expeditious negotiating period. Doing so will help lock in some of the gains already achieved in negotiations of the Trans-Pacific Partnership Agreement and increase certainty for exporters, who often contract with buyers months or years in advance.

In particular, we believe that areas of strong common interest can be, and often have already been, identified by the Governments of Mexico, Canada and the United States. Mutual agreement on these issues should be considered a priority when negotiations begin in Washington, D.C. on August 16. They include:

- Sanitary and phytosanitary measures;
- Biotechnology;
- Trade facilitation;
- E-commerce;
- Regulatory convergence;

As negotiations move forward, NAEGA is pleased to assist in identifying opportunities to update and modernize NAFTA. In particular, NAEGA is keen to support efforts to facilitate trade; expand market access and tariff concessions; improve regulatory consistency and cooperation; remove non-tariff barriers that lack scientific merit; enable the innovation of information technologies; recognize comparable regulatory systems for assessing the safety of plant breeding technologies; adopt a North American approach to LLP policy; and ensure safe and orderly passage for rail and truck freight transportation throughout North America. NAEGA is eager to



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work actively, constructively and expeditiously with the Government of Mexico to more closely examine these key areas and to develop specific strategies to preserve, improve and build upon existing and new trade relationships between the U.S. and Mexico.

Thank you for your consideration. We would be pleased to respond to any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary C. Martin".

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