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DATE

The Honorable Robert Lighthizer The Honorable Wilbur Ross
United States Trade Representative Secretary of Commerce
Office of the U.S. Trade Representative U.S. Department of Commerce
600 17th Street NW 14th Street and Constitution Ave., NW
Washington, D.C. 20006 Washington, DC 20230

The Honorable Sonny Perdue Mr. Gary Cohn
Secretary of Agriculture Director, National Economic Council
U.S. Department of Agriculture The White House
1400 Independence Ave., SW 1600 Pennsylvania Ave., NW
Washington, DC 20250 Washington, DC 20500

Dear Ambassador Lighthizer, Secretaries Ross and Perdue and Director Cohn:

The undersigned organizations, representing the diverse U.S. food and agricultural sector, would like to thank you for your recognition of the importance of the North American Free Trade Agreement (NAFTA) to our industry. We would like to ask that, as part of the efforts to “do no harm” to our industry, a modernized NAFTA contain dispute settlement mechanisms that will protect our exports from future trade barriers imposed counter to the market access goals of this agreement.

The Administration has clearly recognized that trade agreements like NAFTA have in large part been a success for U.S. farmers, ranchers and food processors. Since the NAFTA was implemented in 1994, U.S. food and agricultural exports to Canada and Mexico have quadrupled. In 2015 the U.S. enjoyed a 65% market share for agriculture products in the NAFTA region, and in 2016 the U.S. exported nearly $43 billion worth of food and agriculture goods to its NAFTA partners.

Much of food and agriculture products’ export growth to Mexico and Canada can be attributed to the elimination of duties and quotas, but much also relies on the dispute settlement mechanisms that have been provided under NAFTA, including the Investor State Dispute Settlement mechanism and the “Review and Dispute Settlement in Antidumping/Countervailing Duty Matters Chapter” (Chapter 19).

Chapter 19 of the NAFTA has provided U.S. food and agriculture exporters an effective tool to hold Mexican [and Canadian] anti-dumping (AD) and countervailing duties (CVD) investigators and administrators accountable through an effective appeals process that can overturn egregious AD and CVD findings and keep markets open for U.S. products. Because of these provisions, U.S. sectors, including beef, pork, chicken, corn syrup, apples, and other exported U.S. products, have successfully gotten unlawful threats to their market access struck down.

Without such dispute-resolution mechanisms, U.S. companies would be forced to contest AD and CVD determinations in lengthy and potentially unreliable Canadian and Mexican court proceedings. Unfortunately, World Trade Organization processes are not a meaningful alternative as they are unduly lengthy, political, and do not provide for restitution of AD/CVD duties found to be applied improperly.

The application of the dispute settlement provisions under Chapter 19 has been fair and well-reasoned, with 80 percent of panel decisions being unanimous. In addition, home country representations on panels is strong, meaning home countries retain a high degree of national control—higher than the dispute mechanisms in any other U.S. trade agreement.

With the productivity of U.S. agriculture growing faster than domestic demand, the U.S. food and agriculture industry—and the rural communities that depend on it—rely heavily on secure export markets to sustain prices and revenues. Without rapid and legally binding dispute resolution, market access for U.S. agricultural exporters to Canada and Mexico will be illusory because tariffs and non-tariff barriers can be raised arbitrarily. Therefore, we ask that you continue to seek to “do no harm” as you modernize NAFTA by preserving and expanding upon the gains achieved for agriculture from market access and dispute settlement.

Thank you for your consideration.

Sincerely,

American Feed Industry Association

American Peanut Council

American Soybean Association

Corn Refiners Association

Global Cold Chain Alliance (GCCA)

National Association of Egg Farmers

National Council of Farmer Cooperatives

National Oilseed Processors Association

National Renderers Association

North American Meat Institute

Northwest Horticultural Council

USA Rice
U.S. Grains Council