



North American Export Grain Association

## Outreach September 10, 2018

Thank you for your membership in and work with NAEGA

### Image of the Week

#### Last week the U.S. and Mexico reached a trade agreement that Excludes Canada

The Trump Administration indicated to Congress Friday that they will sign the agreement, kicking off a 90-day congressional countdown

In a final push to try and reach a deal before the inauguration of President-elect Lopez Obrador, the US and Mexico met on a weekly basis to resolve bilateral issues. Negotiators stressed intentions to bring Canada back into negotiations upon reaching an agreement between the two countries



The US and Mexico were able to reach a tentative agreement, but it is nonbinding. A new deal hinges on Canada's acceptance - which officials hope will come within the week to meet the inauguration deadline

#### Is this a new NAFTA?

Mexican and US officials have given conflicting signals during the announcement of the deal:

- President Peña Nieto repeated four times that it depended on Canada's involvement
- President Trump questioned if Canada could agree to the deal, proposed ending NAFTA and remaining the agreement, and suggested the deal may only be on a bilateral basis

Source: Jordan Babine and Veda Chaffin, "Trump announces agreement with Mexico on NAFTA update," The Hill, August 31, 2018.

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#### The agreement includes key compromises that tighten automotive rules of origin

##### Initial US automobile content demands



**85%**  
Requirement for select North American automobile components for duty-free trade



**50%**  
Auto components must be from United States



##### US-Mexico agreement



**75%**  
Requirement for North American automobile components for duty-free trade



**40% - 45%**  
Percentage of auto components must be built by workers with an hourly wage of at least \$16



**2.5%**  
Tariff applied to Mexican cars/trucks imported to US from existing plants, if do not comply with new rules

Source: Peter Brinkman and Jeffery M. Heston, "U.S. and Mexico reach NAFTA trade agreement," Reuters, August 31, 2018.

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#### A Full Blown "Sunset Clause" Appears to have been avoided Although, parties will reconsider the agreement every six years

##### Initial US sunset clause demands



**5 years**  
NAFTA automatically expires unless renegotiated



##### US-Mexico agreement



**16 years**  
and agreement automatically expires



**Review period**  
After six years, review deal and can extend or renegotiate areas

Source: Bob Roen, "The US and Mexico struck an agreement on key parts of NAFTA, leaving a step closer to ending the massive trade deal," Business Insider, August 31, 2018; Reuters, August 31, 2018.

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#### The deal also waters down the dispute settlement provisions included in the current NAFTA

Notably, agriculture would not have full access to dispute proceedings

##### Initial US settlement system demands



**Opt out**  
Option to opt out from dispute resolution panels



##### US-Mexico agreement



**Industry specific**  
Oil and gas, infrastructure, energy generation and telecommunications companies with contracts with US/Mexico governments have full protection of existing system



**Scaled back protection**  
Other industries would face scaled back protections - only having direct protection from physical expropriation

Source: "Trade Update," The Wall Street Journal, August 31, 2018; John R. Heilbrunn, Adam Scharif, Megan Conolly and Doug Palmer, "Trump-Mexico deal: How does Canada with trade deal," Reuters, August 31, 2018.

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### Action Reports

#### Recent Actions:

- U.S. Food & Agriculture Dialogue for Trade

### *Upcoming Actions*

- **MEMBER FEEDBACK NEEDED: FGIS soybean, corn and canola standards**
- IMO CCC5 – September 10-15 – London, UK
- U.S. Corn – Peru CVD Investigation

### *Pending Actions*

- Khapra Beetle Comments
- Meeting on IMO III 5
- China's Compliance with WTO Commitments
- Russia's Implementation of its WTO Commitments
- Codex SPS Standard-Setting Activities
- U.S. National Trade Estimate Report

### **Member Opportunities**

- APHIS Virtual Seminar on Biotechnology Regulations – September 20
- Board of Directors Meeting – Arlington, VA – October 2
- DBTG Technical and Operations Seminar – Baltimore, MD – October 3-5
- Upcoming Contracts and Best Practices Seminar – October 9 in NOLA
- Annual Hwy H<sub>2</sub>O Conference – Toronto, Canada – November 13-15
- U.S. Barge Trade Digitization Project
- NAFTA and Asia-Pacific Policy Teams
- Internship Open with NAEGA

### **News**

- USDA Launches Trade Mitigation Programs
- United States-Mexico Free Trade Agreement

### **NAEGA Calendar and Member Notices**

- Upcoming events and notices to members

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## **Action Reports**

### *Recent Actions:*

#### **U.S. Food & Agriculture Dialogue for Trade**

On August 30, NAEGA President and CEO Gary Martin co-chaired a meeting of the U.S. Food and Agriculture Dialogue for Trade at the American Farm Bureau Federation. During the meeting, the Dialogue welcomed USDA Chief of Staff Ray Starling to discuss the Administration's positions on trade, its efforts to expand U.S. market access for agriculture goods, the status of trade agreement talks with various nations, and details of the USDA's recent trade mitigation package.

The Dialogue also heard updates from the chairs of the Asia-Pacific and North American Market Working Groups and discussed plans for future meetings.

### ***Upcoming Actions:***

#### **U.S. FGIS soybean, corn and canola standards**

The NAEGA Grades and Inspections Committee is coordinating with the National Grain and Feed Association's Grades and Weights Committee to respond to U.S. Agricultural Marketing Service (AMS) request for public comment on current Federal Grain Inspection Service (FGIS) standards for canola, corn and soybeans as follows:

- [Request for comments on corn standards can be found here.](#)
- [Request for comments on soybeans standards can be found here.](#)
- [Request for comments on canola standards can be found here.](#)

Responses to all three requests were due August 28, 2018. However, NAEGA and NGFA have confirmed that AMS will be announcing an extension shortly.

The Agency reports that the purpose of these requests for comments is to ensure that standards and official grading practices remain relevant and effective. While the standards and grading practices for all three commodities are relevant to NAEGA interests the soybean standards likely will need and attract the most attention given the ongoing issues with China, and in particular the Animal and Plant Health Inspection Service's inappropriate use of FM (a grain quality factor) on phytosanitary certificates (reserved for plant disease or plant pest matters). We anticipate that soybean producer and marketing organizations will focus heavily on the definition and measurement of foreign material in the U.S. soybean standards. There also may be consideration given to changing soybean FM to differentiate and account for soybean pieces and hulls, thereby more closely mirroring the BCFM factor in the corn standards.

Please let us know your views.

#### **IMO CCC5 – September 10-15 – London, UK**

On September 10-15 Ryan will travel to London, United Kingdom to attend the fifth meeting of the International Maritime Organization's (IMO) Sub-committee on the Carriage of Cargoes and Containers (CCC) as a member of the International Bulk Terminals Association (IBTA) delegation. Over the past few years NAEGA has worked closely with the IBTA to monitor developments at the CCC and weigh in on the CCC's regulatory initiatives as they impact the bulk grain trade. During this meeting of the CCC, NAEGA and the IBTA will be following changes to the classifications of Distillers Dry Grains and Solubles to ensure that they are trade facilitating. NAEGA will also be monitoring the actions by member states to ensure that past efforts to re-open regulations under the International Grain Code are not revisited. A notice to post for this upcoming travel will be available soon.

#### **U.S. Corn - Peru CVD Investigation**

NAEGA continues to gather and convey information to interested members regarding Peru's recent self-initiation of a countervailing duty case against U.S. origin yellow corn. On July 24 Peru initiated an investigation into U.S. yellow corn imports under the WTO Subsidy and Countervailing Measures agreement and Peruvian law. Currently, the U.S. Trade Representative (USTR), along with the U.S. Department of Commerce (DOC), International Trade Commission (ITC) and Department of Agriculture (USDA) are coordinating a joint U.S. government (USG) response. NAEGA is closely coordinating with this USTR led team.

According to the USDA's [March 2018 Peru Grain and Feed Annual](#), the CVD case was initiated as a result of protests by domestic producers regarding low domestic corn prices:

“In February-March 2018, Peruvian corn producers protested low market prices for corn. They argued that imported corn is undercutting local corn prices, and are demanding that the government purchase local corn at above the market prices. The protesters were trying to repeat similar negotiations by potato producers in early 2018. These protests reveal the challenges that the government faces in adequately addressing social and production issues faced by smallholder farmers.”

USTR is anticipating that the current legal process will follow the below schedule:

- [USTR schedule for Peru yellow corn CVD case.](#)

On August 6 U.S. government and industry received the following questionnaires regarding Peru's investigation into U.S. subsidy programs.

- [U.S. Government CVD Questionnaire](#)
- [U.S. Producer CVD Questionnaire](#)

Both questionnaires are due **in Spanish on September 12.**

NAEGA is currently coordinating a Special Interest Group (SIG) of exporters in order to facilitate a coordinated industry response. If you are interested in joining the SIG, please contact Gary and Ryan.

### ***Pending Actions:***

#### **Khapra Beetle Comments**

The NAEGA Grades and Inspections Committee is considering a response to the North American Plant Protection Organization, which [is seeking public comment](#) on developing a harmonized North American approach to preventing the introduction, establishment and spread of khapra beetle in various pathways.

Final comments are due to NAPPO on **September 30, 2018.**

**Meeting on IMO III 5**

The Department of State will be holding a public meeting on **Friday, September 14** to prepare for the fifth session of the International Maritime Organization's (IMO) Subcommittee on Implementation of IMO Instruments (III 5) to be held at the IMO headquarters in London, UK, on September 24-28. Agenda items include discussions of the alleged inadequacy of port reception facilities, measures to harmonize port state control activities and procedures worldwide, and safety issues identified from the analysis of marine safety investigation reports.

The official notice in the Federal Register can be found [here](#) and additional information [here](#).

The deadline for reserving a physical spot at the meeting has passed, but interested persons may participate via teleconference. If you would like to participate, contact Mr. Christopher Gagnon by email at christopher.j.gagnon@uscg.mil or by phone at (202) 372-1231.

### **China's Compliance with WTO Commitments**

The Office of the United States Trade Representative (USTR) is seeking comments from interested parties as it prepares its annual report to Congress on China's compliance with its World Trade Organization (WTO) accession commitments. In particular, USTR is seeking comments on commitments in the following areas:

- A. Trading rights.
- B. Import regulation (e.g., tariffs, tariff-rate quotas, quotas, import licenses).
- C. Export regulation.
- D. Internal policies affecting trade (e.g., subsidies, standards and technical regulations, sanitary and phytosanitary measures, government procurement, trade-related investment measures, taxes and charges levied on imports and exports).
- E. Intellectual property rights (including intellectual property rights enforcement).
- F. Services.
- G. Rule of law issues (e.g., transparency, judicial review, uniform administration of laws and regulations) and status of legal reform.
- H. Other WTO commitments.
- I. Unresolved compliance issues that warrant review and evaluation by USTR's China Enforcement Task Force.

The official notice in the Federal Register can be found [here](#) and additional information [here](#).

Comments should be submitted through regulations.gov. The deadline to submit comments, requests to appear and summaries of testimony at the October 3 public hearing is **September 19, 2018**.

### **Russia's Implementation of its WTO Commitments**

The Office of the U.S. Trade Representative (USTR) is seeking comments from interested persons as it prepares its annual report to Congress on Russia's compliance with its World Trade Organization (WTO) accession commitments. The Trade Policy Staff Committee (TPSC) will also convene a public hearing to assist the USTR in its preparation of this report.

In particular, USTR is seeking comments on commitments in the following areas:

- A. Import regulation (e.g., tariffs, tariff-rate quotas, quotas, import licenses).

- B. Export regulation.
- C. Subsidies.
- D. Standards and technical regulations.
- E. Sanitary and phytosanitary measures.
- F. Trade-related investment measures (including local content requirements).
- G. Taxes and charges levied on imports and exports.
- H. Other internal policies affecting trade.
- I. Intellectual property rights (including intellectual property rights enforcement).
- J. Services.
- K. Government procurement.
- L. Rule of law issues (e.g., transparency, judicial review, uniform administration of laws and regulations).
- M. Other WTO commitments.

The official notice in the Federal Register can be found [here](#) and additional information [here](#).

Comments should be submitted by **September 25, 2018**. The public hearing will take place on October 4.

#### **Codex SPS Standard-Setting Activities**

The USDA's Office of Trade and Foreign Agriculture Affairs (TFAA) is requesting public comments on the sanitary and phytosanitary (SPS) standard-setting activities of the Codex Alimentarius Commission (Codex). TFAA seeks comments on SPS standards under consideration and recommendations for new standards.

The official notice in the Federal Register can be found [here](#) and additional information [here](#).

#### **U.S. National Trade Estimate Report**

NAEGA members are invited to participate in comments to the Office of the U.S. Trade Representative (USTR) regarding the publication of the annual National Trade Estimate Report on Foreign Trade Barriers (NTE Report). USTR is requesting written comments to assist them in identifying significant barriers to U.S. exports of goods and services, U.S. foreign direct investment, and the protection and enforcement of intellectual property rights for inclusion in the NTE Report. USTR will also consider responses to this notice as part of the annual review of the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States.

The official notice in the Federal Register can be found [here](#) and additional information [here](#).

Comments should be submitted through [regulations.gov](http://regulations.gov). The deadline to submit comments is **October 30, 2018**.

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**Member Opportunities**



### **APHIS Webinar on Biotechnology Regulations – September 20**

APHIS' Biotechnology Regulatory Services' Biotechnology Quality Management Support program is hosting a free webinar on monitoring or volunteers on Thursday, September 20 from 1:00pm-3:00pm. The webinar will provide details and supporting examples on the relationship between volunteer monitoring activities and compliance with APHIS' biotechnology regulations.

Register or find more information about the webinar [here](#).

### **Board of Directors Meeting – Arlington, VA – October 2**

The next meeting of the NAEGA Board of Directors will be held from 9:00am-2:00pm on Tuesday, October 2 at NAEGA's office in Arlington, VA. More details and the meeting agenda will follow in the coming weeks.

### **DBTG Technical and Operational Seminar – Baltimore, MD – October 3-5**

You are welcome to join NAEGA staff for the Dry Bulk Terminals Group's (DBTG) fall Technical and Operational seminar. This fall's seminar will take place at the Sheraton Inner Harbor Hotel in Baltimore, MD on October 3-5.

A preliminary schedule of events is available [here](#).

### **Upcoming Contracts and Best Practices Seminars**

With the release of the revised NAEGA 2 contract on March 30, NAEGA is planning for educational seminars to communicate these revisions and educate on the contract and industry best practices. Our next seminars are:

- October 9 in New Orleans, LA.
- October 15 in Portland, OR,

NAEGA seminars are an intensive and informative review of commercial and official practices taught in an interactive environment. The goal of each seminar is to improve predictability, reduce risks, resolve trade barriers and facilitate profitable trade. A general agenda includes:

- Open dialogue on current contracting practices as they relate to trade risks
- A "Road Map" of the NAEGA II Model Contract
- Review of the 2018 revisions to the NAEGA II Model Contract
- Perspectives on the global contracting environment in GAFTA, FOSFA and other contract models and practices
- Case study exercises on:
  - Calculating laytime, dispatch and demurrage.
  - Contract terms.
- Arbitration and other alternatives for dispute resolution.

In addition to the public seminars listed above, NAEGA also conducts company specific private seminars. Please contact Ryan if you are interested in hosting a private, tailored seminar at your office. Click [here](#) for more information on the in-depth, interactive programs NAEGA conducts!

### **HWY H<sub>2</sub>O Conference – Toronto, Canada – November 13-15**

NAEGA members are invited to attend the St. Lawrence Seaway Development Authority's HWY H<sub>2</sub>O Conference in Toronto, Canada. HWY H<sub>2</sub>O is a convergence of industry thought leaders and experienced marine specialists in maritime commerce and shipping focused on the Great Lakes and St. Lawrence Seaway. This year's conference will focus on technology and innovation as a key component in developing new opportunities, streamlining costs and remaining a competitive logistic system.

Register or find more information about the conference [here](#).

### **U.S. Barge Trade Digitization Project**

A task force of member company representatives involved in Mississippi River barge trade is examining approaches to undertake for a new digital data exchange system. The task force is seeking input from other industry participants on the core requirements of a new system and any other feedback they should consider. Broad adoption by the industry is critical to achieving the maximum potential cost savings associated with the new system.

*All inquiries and feedback are welcome.* Please contact Julie Detlefsen ([Julie\\_Detlefsen@cargill.com](mailto:Julie_Detlefsen@cargill.com)) or Charlie Delacruz ([cdelacruz@ngfa.org](mailto:cdelacruz@ngfa.org)) with any questions or comments.

### **NAFTA and Asia-Pacific Policy Teams**

With NAFTA negotiations underway and the evolving U.S.-China trade relationship, we expect many more fast paced and dramatic developments that could greatly change the terms of trade for NAEGA members. Your involvement is needed!

NAEGA ad hoc policy teams of member personnel working largely through conference calls are helping to guide our multifaceted effort to address the evolving trade environment. Teams focused on the North American Free Trade Agreement and the Asia-Pacific Market are already established. The **NAFTA Policy Team** will be heavily engaged over the next three months to support NAEGA work with the U.S. Food and Ag. Dialogue for Trade, The Pacific Northwest Economic Region, the Canada U.S. Grain and Seed Trade Task Group and the NAEGA committees and Board of Directors to address NAFTA. A similar effort will soon start with an **Asia-Pacific Policy Team** that will be focused on U.S. trade relations with China, Japan, Korea and the Trans Pacific environment more generally.

### **Internships**

We have an open intern position starting in the fall of 2018 to work at the NAEGA office at 1400 Crystal Drive, Arlington, VA 22202. Information on working for NAEGA as an intern can be found [here](#).

*Full Details on Upcoming Events can be found in the Meetings & Events Section of the [NAEGA Member's Only Page](#).*

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News



### **USDA Launches Trade Mitigation Programs**

On September 4, U.S. Secretary of Agriculture Sonny Perdue launched the U.S. Department of Agriculture's (USDA) trade mitigation programs aimed at assisting farmers suffering from unjustified trade retaliation by foreign nations. In July, the USDA announced it would authorize up to \$12 billion in programs to mitigate retaliatory tariffs against the U.S. agriculture.

The following programs will be used to assist agricultural producers:

- USDA's Farm Service Agency (FSA) began administering the **Market Facilitation Program (MFP)** to provide payments to corn, cotton, dairy, hog, sorghum, soybean and wheat producers on September 4, 2018. The USDA will spend \$4.7 billion in this first payment period. The second payment period, if warranted, will be determined by USDA.
- USDA's Agricultural Marketing Service (AMS) is administering a **Food Purchase and Distribution Program** to purchase up to \$1.2 billion in commodities unfairly targeted by retaliatory tariffs. USDA's Food and Nutrition Service (FNS) will distribute these commodities through nutrition assistance programs.
- Through the Foreign Agricultural Service's (FAS) **Agricultural Trade Promotion Program (ATP)**, \$200 million will be made available to develop foreign markets for U.S. agricultural products. The program will help U.S. agricultural exporters identify and access new markets and help mitigate the adverse effects of other countries' restrictions.

MFP applications are currently available online at [www.farmers.gov/MFP](http://www.farmers.gov/MFP). Producers can submit their MFP applications in person at a local FSA office, by email, fax, or by mail. For more information about the three programs listed above, please [click here](#).

### **United States-Mexico Trade Agreement**

On August 31, U.S. President Donald Trump issued a [notice of intention](#) to enter into a trade agreement with Mexico – the bilateral “United States-Mexico Trade Agreement.” In the notice the Trump Administration indicated that this agreement, which is set to supersede the U.S.-Mexico commitments under NAFTA and resulted from ongoing NAFTA negotiations, was still open for Canada to join. The notice sets off a 90-day Congressionally mandated window before the President can sign the agreement. .

The deal includes significant efforts to address agricultural non-tariff barriers. In addition, it weakens NAFTA dispute settlement provisions and introduces a six year review process. Other details of the agreement include:

- Zero tariffs on agricultural products traded between the U.S. and Mexico.
- Instead, the U.S. and Mexico agreed to a 16-year lifespan for the agreement, with a review every six years that can extend the pact for 16 years more.
- Eliminating NAFTA's Chapter 19, a settlement system for anti-dumping disputes.

Canadian Foreign Minister Chrystia Freeland and Canadian trade negotiators remain in Washington to continue bilateral talks with U.S. Trade Representative Robert Lighthizer to explore the possibility of signing on to the agreement. Both the U.S. and Mexico worked to reach

this deal by the end of August, giving Trump enough time to notify Congress of the finalized deal and have the deal signed by current Mexican President Nieto before President-elect Lopez Obrador takes office on December 1.

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## Calendar & Member Notices

Click [here](#) for a copy of the IGTC Calendar

**2018**

### September

- 4** – USDA MFP applications available online
- 7** – International Grains Council Market Condition Committee Meeting – London, UK
- 10-14** – IMO CCC5 – London, UK
- 12** – Peru CVD Questionnaires Due
- 14** – IGTC Management Council – Virtual
- 19** - USTR Comments on China's Compliance with WTO Commitments Due
- 20** – APHIS Biotechnology Regulations Webinar - Virtual
- 26-27** – WTO Agriculture Committee – Geneva, Switzerland
- 30** – Khapra Beetle comments due to NAPPO

### October

- 1-5** – FAO Committee on Agriculture (COAG) – Rome, Italy
- 2** – NAEGA Board of Directors Meeting
- 3-5** – DBTG Operational and Technical Workshop – Baltimore, MD
- 9** - NAEGA Contracts and Best Practices Seminar – New Orleans, LA
- 15** – NAEGA Contracts and Best Practices Seminar – Portland, OR
- 16-19** – NAPPO Annual Meeting – Merida, Mexico
- 30** - USTR Comments for National Trade Estimate Report on Foreign Trade Barriers Due
- 31-November 1** – WTO SPS Committee – Geneva, Switzerland

### November

- 5-8** – USDA Trade Mission to South Korea
- 12-18** – APEC Leaders Summit
- 13-15** – HWY H<sub>2</sub>O Conference – Toronto, Canada
- 19-23** – IPPC Standards Committee – Rome, Italy
- 21-22** – WTO Agriculture Committee – Geneva, Switzerland
- 10-22** – COP 14 – Egypt
- 27-29** – IGTC General Assembly 2018 – Beijing, China

### December

- 1** – New Mexican Administration takes office
- TBD** – U.S. APHIS and China AQSIQ bilateral on soybean phytosanitary requirements
- 2-4** – NGFA Country Elevator Conference – St. Louis, MO

4 – IGC 40<sup>th</sup> Session – London, UK  
14 – IGTC Management Council - Virtual  
TBD – Biosafety Protocol COP 14 – Egypt

**2019**

**January**

9 – Peru CVD Evidentiary Period Ends

**February**

8 – Peru CVD essential facts issues

**March**

17-19 – NGFA Annual Convention – Amelia Island, FL

25 – Peru CVD definitive resolution issued

**December**

2-4 – NGFA Country Elevator Conference – Indianapolis, IN

**2020**

**March**

8-10 – NGFA Annual Convention – Austin, TX

**December**

TBC – COP 15 – CBD – Beijing, China

**2021**

**March**

14-16 – NGFA Annual Convention – San Diego, CA

**2022**

**December**

TBC – COP 16 – CBD – Turkey

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