



National Grain and Feed
Association



North American Export
Grain Association

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March 8, 2013

Ms. Tricia Van Orden
Executive Secretary
President's Export Council
Room 4043
1401 Constitution Avenue N.W.
Washington, D.C. 20230
Via Email: tricia.vanorden@trade.gov

***RE: Federal Register Notice Document #2013-04381, February 25, 2013.
Request for Comments for the President's Export Council March 12, 2013 meeting***

Dear Council Members and Staff:

The North American Export Grain Association (NAEGA) and National Grain and Feed Association acknowledge and appreciate your ongoing and successful service as the principal national advisory committee on international trade.

In response to the request for comments, we would like to convey strong support for your work and ongoing consideration of ways to further expand and improve international trade of agricultural products. We commend the U.S. government and the many private sector stakeholders who successfully are addressing opportunities to open markets and reach new consumers for U.S. farmers, manufacturers and service providers. Increased U.S. exports lead directly to U.S. job creation and economic growth. Indeed, for every \$1 billion in agricultural exports, 8,400 American jobs are supported and \$1.4 billion in economic activity is generated.

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's membership is largely domiciled in both the U.S. and Canada. NAEGA's mission is to promote and sustain the development of commercial export of grain and oilseeds and their primary products. Through a reliance on member action and support, NAEGA acts to accomplish its mission from its office in Washington D.C., and in markets throughout the world.

The NGFA is comprised of 1,050-member companies that operate more than 7,000 facilities and handle more than 70 percent of the U.S. grain and oilseed crop. NGFA membership encompasses all sectors of the industry, including country, terminal and export grain elevators; commercial feed and feed ingredient operations; biofuel producers; cash grain and feed merchants; end-users of grain and grain products, including processors, flour millers, and livestock and poultry integrators; commodity futures brokers and commission merchants; and allied industries.

NAEGA and NGFA encourage the President's Export Council to incorporate the following concepts and recommendations in its analysis of, and advice related to, the Trans Pacific Partnership (TPP), the recently announced Transatlantic Trade and Investment Partnership (T-TIP) and the state of U.S.-Canada Trade:

- **TPP and T-TIP:** TPP and T-TIP currently represent the best opportunities to establish effective and much-needed measures to address Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT). The best opportunity to expand and achieve more consistent trade in agricultural products internationally is to establish SPS and TBT measures that are enforceable and trade facilitative. Toward that end, much has been learned about how to build upon existing World Trade Organization disciplines to strengthen and reinforce existing rules, as well as to underscore the importance of science-based regulation.

Ambitious, high-standard agreements will benefit farmers and processors, as well as consumers across the globe. Including new disciplines on the application of SPS measures that effectively respond to emerging trade challenges should be a high priority for both the TPP and T-TIP. Industry and consumers need these agreements to provide for improved food security and access through increases in trade access, reliability and timeliness. More effective measures, including dispute settlement, to address trade restrictions related SPS and TBT measures and implementation should be a major component of both agreements.

We believe and encourage final agreements that include:

- **“WTO-Plus” SPS and TBT Provisions:** All trading partners in any agreement should be held accountable for their commitments. Therefore, ensuring the effectiveness of “WTO-plus” SPS and TBT provisions is vitally important. “WTO-plus” commitments are obligations that go beyond the WTO Agreement on such issues as risk assessment, risk management, transparency, border checks/laboratory testing and facilitating trade through regulatory-coherence measures.
- **Enforceability:** It is imperative that SPS and TBT provisions, including the WTO-plus components, be enforceable. Enforceability will bring immediate and sustainable value to SPS and TBT commitments. Countries must be able to rely on using this next generation of trade agreements to resolve trade issues, even in cases where an importing country may prefer not to honor those commitments.
- **A Scientific Basis:** A commercially meaningful and effective SPS and TBT agreements chapter must include effective disciplines that underscore the importance of harmonized,

science-based regulations. Strong, practical and predictable trade results when arbitrary, non-science-based SPS and TBT measures are prevented.

- **Rapid Response Trade Facilitation:** A “Rapid Response Mechanism” (RRM) should be incorporated to provide for shipment-specific trade facilitative obligations that address disruptions of trade in perishable and time-sensitive shipments of agricultural products as result of implementation of SPS and TBT measures. A RRM that fully engages the private sector supports an effective consultation and oversight process, while reducing post-harvest loss and human discord.

Food and agricultural imports and exports frequently confront actions by SPS and TBT administrative entities that unnecessarily delay or prevent shipments of critically important and perishable agricultural products for food, feed and further processing. These actions by governments often lack transparency, predictability and timely mitigation. The result often means unwarranted costs and significant impediments to safe and secure supply. Short- and long-term harm to important trade flows that support global food and economic security, while benefiting consumers, farmers, ranchers, manufacturers, transporters and labor, can be prevented and reduced with improved capacity to manage actions by SPS and TBT administrative entities.

TPP and T-TIP should include a RRM that improves controls related to SPS and TBT so that official actions work for and with consumers, farmers, ranchers and global commerce. A RRM is compatible with, and fits into the concept of, “WTO-plus” obligations that go beyond the WTO SPS Agreement on issues like risk assessment, risk management, transparency, border checks/laboratory testing and facilitating trade through regulatory coherence measures. Incorporation of a RRM would take the dispute from a bilateral one to extend to broader oversight, as well as effective engagement of commercial parties.

A RRM would not conflict with the WTO SPS and TBT process, but rather make the consultation and oversight process work in TPP so industry does not have to wait years for governments to resolve SPS or TBT disputes, either bilaterally or through the WTO process. Acting in many ways like a “small claims court,” an RRM mechanism is needed to swiftly resolve misapplication of SPS and TBT measures, limit trade friction and improve capacity to manage SPS and TBT risks in the least trade-distortive manner.

A RRM for SPS and TBT should provide for two mandatory mechanisms that could provide for shipment acceptance. NAEGA and NGFA suggest that TPP and T-TIP include measures for both immediate detailed notification and expedited review:

1. A process of immediate detailed notification to the importer or exporter of record (shipper or consignee) of risk detection, assessment and management measures. A notification that details methodology, findings, enabling authority and recourse or compliance measures related to the action taken should be provided by the official body within three days of request by either the importer or exporter of record. Further conveyance of the notification should be at the option of the requesting party. The

notification should be recognized as potentially providing for further review or actions acceptable to the relevant official body that may support or mitigate the action.

2. An expedited review at the request of governments that are parties to the trade agreement. The expedited review would be conducted by neutral experts from signatories of issues raised by nationals and provided in 15 days. The expedited review will result in a non-binding, public recommendation (with only confidential business information redacted). There is precedent for this in WTO.

A RRM provides a specific, practical and reasonable component of what is emphasized and articulated by many agricultural trade stakeholders as a critical need: “Full enforceability includes a commitment to timely and transparent action to address actions that delay shipments of perishable and needed agricultural products.”

- **U.S.-Canada Trade Facilitation** is critical to the future of both countries. A common border, combined with similar geography, weather, demographics and culture, promote a close trading relationship, while a shared language and similar regulations allow for fluid business transactions and efficient production. Increased bilateral economic cooperation has resulted in a large consumer base and expanded cross-border activity for both the American and Canadian agriculture and agri-food industries. Bilateral trade provides consumers on both sides of the border with a greater variety of safe, healthy and wholesome food products. It also offers producers of both nations a larger and more diversified market in which to sell.

The United States and Canada enjoy the largest bilateral trading relationship in the world. Almost 8 million jobs (1 in 22 jobs) in the United States depend upon overall U.S.-Canada trade. As the United States’ top agricultural export market, Canada purchased approximately \$19 billion in U.S. agricultural products in 2011. Bilateral trade in agriculture amounted to \$38.4 billion (or about 7 percent of total two-way trade) in 2011. The average Canadian consumes \$548 of American agriculture and food products per year. Meanwhile, U.S. consumers spend approximately \$62 on Canadian agricultural products annually.

As the Council likely is aware, on August 1, 2012 Canada implemented the Marketing Freedom for Grain Farmers Act. The act changed the way Western Canadian wheat and barley farmers market their grain by removing the mandatory requirement to market wheat and barley through the Canadian Wheat Board (CWB). Farmers had been required to sell through the Canadian Wheat Board marketing monopoly since it was established on October 12, 1943.

Canada’s Marketing Freedom for Grain Farmers Act, along with current and related market and policy changes in Canada, already have proven to be what many see as the most effective set of improvements to North American grain and oilseed trade in our lifetimes. Canadian and U.S. wheat, barley and durum producers already are enjoying greatly reduced restrictions in cross-border transactions.

Both the U.S. and Canadian governments, as well as the private sector, are engaged actively in fostering this most successful of all U.S. food and agriculture trading relationships. One

example is the new and effective two-way communication and collaboration that occurred in the aftermath of changes to the grain market in Canada that specifically is designed to prepare U.S. and Canadian farmers for the change. The U.S.-Canada Grain and Seed Trade Task Group comprised of stakeholders and experts from both the private and public sectors continues to work together to make this trade function so effectively. The group maintains a website, www.canada-usgrainandseedtrade.info that serves as a repository for trade-supporting information and dialogue.

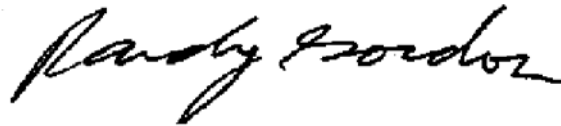
We encourage the President's Export Council to support the open communication and dedication to open markets this strong, evolving and long-lasting partnership.

NAEGA and NGFA appreciate this and any other opportunity to contribute to the Council's work. Please feel free to contact us if we can be of further assistance.

Sincerely,



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



Randall C. Gordon
President
National Grain and Feed Association