

September 14, 2017

The Honorable Robert Lighthizer
United States Trade Representative
Office of the U.S. Trade Representative
600 17th Street NW
Washington, D.C. 20006

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

The Honorable Wilbur Ross
Secretary of Commerce
U.S. Department of Commerce
14th Street and Constitution Ave., NW
Washington, DC 20230

Mr. Gary Cohn
Director, National Economic Council
The White House
1600 Pennsylvania Ave., NW
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, thank you for your recognition of the importance of the North American Free Trade Agreement (NAFTA) to our industry. We 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 been in large part a success for U.S. farmers, ranchers and food processors. Since 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 percent 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 our food and agriculture product 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 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 succeeded in getting 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 Mexican and Canadian court proceedings by judges with little or no experience with international trade law. Unfortunately, World Trade Organization processes are not a meaningful alternative as they are unduly lengthy and political, and they 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 are strong, meaning home countries retain a high degree of national control—higher than the dispute mechanisms in any other U.S. trade agreement. Nevertheless, experience has shown that some changes could be made to help U.S. exporters.

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—relies 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 improving upon dispute settlement provisions under Chapter 19.

Thank you for your consideration.

Sincerely,

American Cotton Shippers Association
American Farm Bureau Federation
American Feed Industry Association
American Peanut Council
American Seed Trade Association
American Soybean Association
Animal Health Institute
Corn Refiners Association
Dairy Business Milk Marketing Cooperative
Global Cold Chain Alliance (GCCA)
Grocery Manufacturers Association
National Association of Egg Farmers
National Association of Wheat Growers
National Confectioners Association
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Oilseed Processors Association
National Renderers Association
National Turkey Federation
North American Export Grain Association
North American Meat Institute
North American Millers' Association

Northwest Horticultural Council

Pet Food Institute

USA Poultry and Egg Export Council

USA Rice

U.S. Apple Association

U.S. Dry Bean Council

U.S. Grains Council

U.S. Meat Export Federation

U.S. Wheat Associates

WineAmerica