June 12, 2017

Edward Gresser
Chair
Trade Policy Staff Committee
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico, FR Doc. 2017-10603

Dear Mr. Gresser:

The National Pork Producers Council (NPPC) is a national association representing a federation of 43 state producer organizations and the federal and global interests of 60,000 U.S. pork operations. The U.S. pork industry is a major value-added enterprise in the agricultural economy and a significant contributor to the overall U.S. economy. We appreciate the opportunity to offer the following comments on this import matter.

Importance of NAFTA and Free Trade Agreements

NAFTA is an old trade agreement. In its 23 years, it has accomplished a great deal, but it has also been overtaken by new, unanticipated forms of trade as well as new trade problems. It needs to be modernized. But there are enormous risks associated with withdrawing if efforts to negotiate a more modern agreement fail.

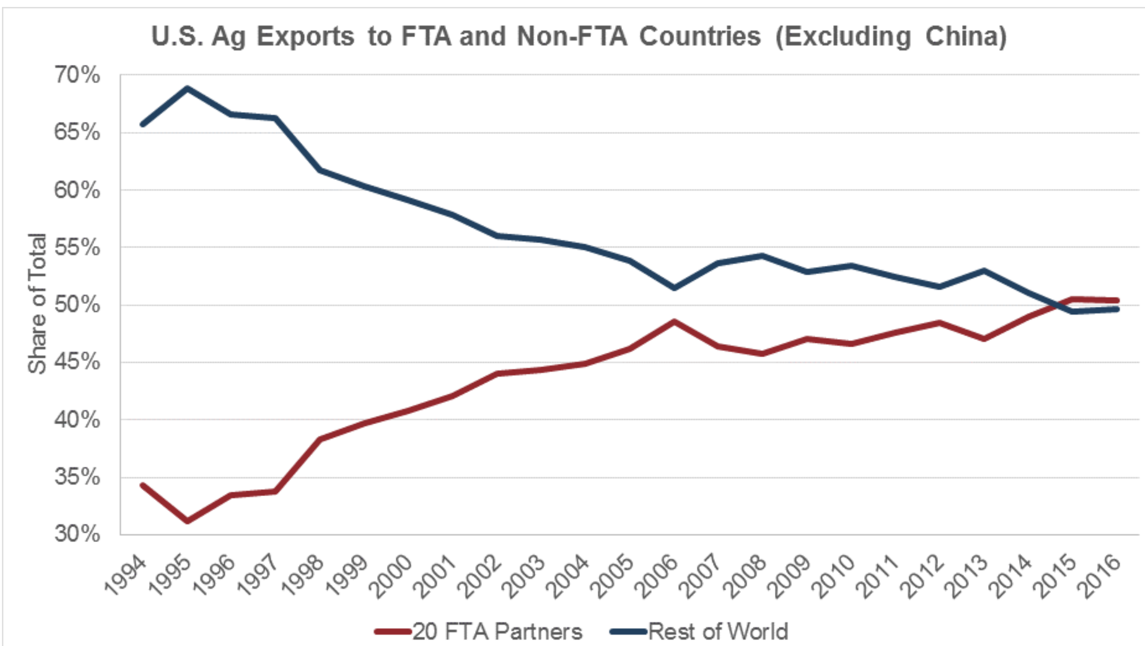
Many more U.S. jobs would be almost immediately lost than could possibly be created by high-protective tariffs, which would inevitably be imposed by all sides. The hardest hit would be the states with the strongest trade and investment ties to Mexico and Canada and sectors and companies that have developed supply chains in Mexico and Canada critical to their businesses. Especially hard hit would be American farmers and ranchers.

We refer you to a "White Paper" recently prepared by NPPC on the importance of NAFTA to agriculture and to other sectors of the economy, which is available at: http://nppc.org/whitepapernafta/ and which we incorporate by reference into this submission. The NPPC White Paper documents the benefits NAFTA has brought to U.S. agriculture, to the pork sector and to the U.S. economy as a whole.

To summarize, food and agricultural exports in 2016 totaled $135 billion, which generated $440 billion in U.S. economic activity in 2016, based on USDA's Economic Research Service (ERS) multiplier. Agricultural exports as a share of cash receipts to farmers have grown from 22 percent to 35 percent since the early 1990s. ERS estimates that each dollar of agricultural exports stimulates another $1.27 in business activity in the economy. The $135 billion of agricultural exports in calendar year 2016, therefore, produced an additional $171 billion in economic activity, for a total of $306 billion economy-wide.

In addition, every $1 billion of U.S. agricultural exports requires 8,070 American jobs throughout the economy. Agricultural exports in 2016 required over 1,089,000 full-time civilian jobs. Exports to Canada and Mexico, our second and third largest foreign markets, totaled over $38 billion in 2016, or 28 percent of our total to the world. Those exports generated over $48 billion in additional business activity throughout the economy and accounted for some 306,000 jobs.

Importantly, much of the growth in U.S. agricultural exports has occurred during the period the United States implemented new trade agreements. The U.S. agricultural sector, as the most efficient and competitive in the world, has benefited greatly from more open markets brought about by these agreements. We now export as much to our 20 FTA partner countries as we do to the rest of the world (over 150 countries), excluding China.



Source: USDA/FAS Global Trade Atlas

The following table provides a breakdown of agricultural export growth by FTA in chronological order since NAFTA. While exports to at least some of these countries would have increased without the FTAs, there is no doubt that the FTAs played a major role in the growth. In all cases, very high tariffs or other restrictive measures were negotiated away, allowing for freer access for U.S. products and, in many cases, preferential access over products from competitor countries.

Growth in U.S. Agricultural Exports to FTA countries

FTA	Date Entered into Force	Year Before Agreement	2016	Growth
		Million Dollars		Percent
Canada FTA/NAFTA	1/1/89	2,019	20,242	+903
Mexico - NAFTA	1/1/94	3,618	17,850	+393
Jordan	1/1/02	122	273	+124
Singapore	1/1/04	266	738	+177
Chile	1/1/04	144	848	+489
Australia	1/1/05	410	1,292	+215
El Salvador -CAFTA	3/1/06	239	560	+134
Honduras - CAFTA	4/1/06	249	649	+161
Nicaragua - CAFTA	4/1/06	125	218	+74
Guatemala - CAFTA	7/1/06	455	1,081	+138
Morocco	1/1/06	164	425	+159
Bahrain	8/1/06	15	65	+333
Dominican Rep.	3/1/07	629	1,175	+87
Costa Rica - CAFTA	1/1/09	608	701	+15
Oman	1/1/09	77	65	-16
Peru	2/1/09	424	1,146	+170
South Korea	3/15/12	6,976	6,202	-11
Colombia	5/12/12	868	2,377	+174
Panama	10/31/12	206	670	+225

Source: USDA/FAS Global Trade Atlas

It is clear from the table that one of the most important trade agreements for agriculture is NAFTA. But no trade agreement is perfect. It is encouraging that efforts are underway, with Mexican and Canadian support, to negotiate needed improvements in this important deal. But it is vital that in doing so we do not backtrack on provisions that have made the two countries among our top three markets in the world.

Mexican WTO tariff rates were substantially higher in the agricultural sector (45 percent bound and 15.6 percent applied) than U.S. WTO rates in agriculture (4.8 percent bound and 5.2 percent applied). It is clear which country's agriculture would suffer more from moving away from NAFTA tariffs – which are essentially zero in both directions – and back to WTO levels.

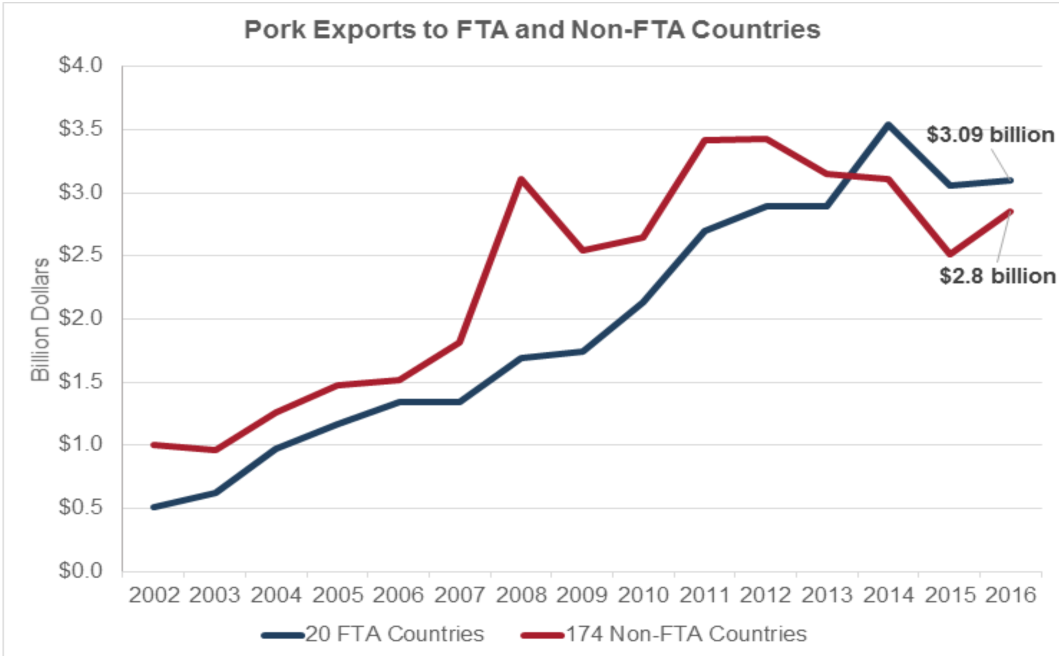
With the productivity of U.S. agriculture growing faster than domestic demand, the U.S. food and agriculture industry – and the rural communities that depend on it – relies heavily on export markets to sustain prices and revenues. Disrupting U.S. agricultural exports to Mexico and Canada would have devastating consequences for our farmers and the many American processing and transportation industries and workers supported by these exports.

Pork can be considered the poster child for sectors that have benefitted from free trade agreements. U.S. exports of pork have increased by 1,550 percent in value and nearly 1,300 percent in volume since 1989, the year the United States implemented an FTA with Canada and began the process of opening international markets for value-added agriculture products. The importance of trade deals is evident given that the United States now exports more pork to the 20 countries with which it has FTAs than to all other nations combined.

The following table and charts show the importance of U.S. FTAs, and NAFTA in particular, to our pork exports.

Growth in U.S. Pork Exports to FTA countries

FTA	Date Entered into Force	Year Before Agreement	2016	Growth
		Million Dollars		Percent
Mexico (NAFTA)	1/1/94	164.7	1,268.2	+670
Canada (NAFTA)	1/1/94	46.9	778.9	+1,561
Jordan	12/17/01	.009	.188	+2,022
Singapore	1/1/04	1.6	14.1	+781
Chile	1/1/04	0.2	41.3	+20,550
Australia	1/1/05	11.3	172.7	+1,428
El Salvador (CAFTA)	3/1/06	0.8	8.3	+937
Honduras (CAFTA)	4/1/06	11.3	43.8	+288
Nicaragua (CAFTA)	4/1/06	0.4	7.2	+1,700
Guatemala (CAFTA)	7/1/06	8.4	40.4	+581
Morocco	1/1/06	0.03	0.05	+150
Bahrain	8/1/06	0.025	0.034	+36
Dominican Republic	3/1/07	6.6	53.2	+706
Costa Rica (CAFTA)	1/1/09	1.3	12.9	+892
Oman	1/1/09	.004	.003	-39
Peru	2/1/09	0.7	10.0	+133
Korea	3/15/12	497.9	472.1	-5
Colombia	5/12/12	29.0	101.5	+250
Panama	10/31/12	13.4	31.1	+132



Source: USDA/FAS/Global Trade Atlas

Source: USDA/FAS/Global Trade Atlas

Over the past 10 years, on average, we have been the top exporter of pork in the world. Exports contribute significantly to the bottom line of all U.S. pork producers, adding more than $50 to the value of each hog marketed in 2016, when about $6 billion of U.S. pork was exported. For these reasons, the opening of new and the expansion of existing markets for U.S. pork through free trade agreements have been and will continue to be vital to the success of the U.S. pork industry.

In 2016, the United States exported more than 730,000 metric tons of pork and pork products, valued at $1.36 billion, to Mexico, making it the largest volume market and the second largest value market for U.S. pork exports. According to Iowa State University economist Dermot Hayes, U.S. pork exports to Mexico have created more than 9,000 U.S. jobs. Canada is our third largest market, taking almost $800 million in pork in 2016. Together, the two countries account for over 40 percent of our exports to the world and about 15 percent of our production.

Professor Hayes calculates that if Mexico were to place a 20 percent duty on our pork – a likely response to a U.S. withdraw from NAFTA -- and allowed EU and Canadian pork duty-free access, we would eventually lose the entire market. In his assessment, Professor Hayes also looked at the possibility of U.S. pork finding alternative markets and concluded the U.S. pork industry would be left with a net loss of about 600,000 tons, or 5 percent of our total production. This would cause a 10 percent reduction in our live hog market. At today's hog prices that is $14 per hog, Professor Hayes concluded. Based on 118.3 million hogs harvested in 2016, that's an aggregate loss to the pork industry of nearly $1.7 billion.

A loss in exports to Mexico of that magnitude would be cataclysmic for the U.S. pork industry. Pork producers will support updating and improving NAFTA but only if duties on U.S. pork remain at zero and pork exports are not disrupted.

We believe it is vital that U.S. negotiators, stakeholders and members of Congress have a full understanding of NAFTA's benefits and the need to avoid putting those benefits at risk in this renegotiation process. In the following section, we recommend several ways that NAFTA can be improved and modernized, but our first obligation is to ensure that in the renegotiation process we do not backtrack on NAFTA's existing market access commitment and obligations.

Proposals for Modernization of NAFTA in the Pork and Meat Sector

<u>WTO-Plus SPS Chapter</u>

With tariffs and other border measures essentially eliminated between the United States, Mexico and Canada under NAFTA, the principal objective of negotiations to modernize the agreement to the benefit of the U.S. meat industry will be to remove unnecessary or spurious regulatory measures that impede trade among the three nations. Many of these are what are commonly referred to as "sanitary or phytosanitary (SPS)" measures.

An excellent starting point for addressing such issues is the SPS chapter negotiated in the Trans-Pacific Partnership Agreement (TPP), and we urge U.S. negotiators to model a new NAFTA SPS chapter on that TPP chapter. TPP improved upon the "Agreement on the Application of Sanitary and Phytosanitary Measures" adopted by members of the World Trade Organization as part of the Uruguay Round of Multilateral Trade Agreements.

The WTO's SPS Agreement will remain the foundation of SPS policy globally, but its rules have in some instances proved to be insufficiently clear. The SPS chapter of TPP would have greatly improved upon those rules for trade among the member countries. It was, therefore, referred to as "WTO-Plus." We see a modernized NAFTA with an SPS chapter based on the work done in TPP as providing the same improved regulatory environment for trade in food and agriculture among the three NAFTA members.

It should include the following key objectives and principles, to the extent that either Canada or Mexico do not already accept and apply them:

General

The rules should provide assurance that our partners use science and risk analysis as a foundation for SPS measures; that they must use appropriate import check and restriction policies focused on direct threats to health and safety; that they avoid duplicative or unnecessary testing requirements where food already meets accepted international standards; and that they use transparent procedures for developing regulations, including opportunities for public comment.

Science and Risk Analysis

The SPS chapter should establish rules for identifying and managing SPS risks while preserving the ability to maintain regulations that are not more trade restrictive than necessary and consistent with WTO principles. More specifically, it should:

- Provide that SPS measures are based on science and that SPS measures either conform to the relevant international standards, or are based on documented, objective, scientific evidence.

- Require that each risk assessment conducted is appropriate to the circumstances of the risk and that the risk management measure is no more trade restrictive than required to achieve the country's appropriate level of protection.

- Ensure that SPS measures do not arbitrarily or unjustifiably discriminate between NAFTA members where identical or similar conditions prevail between one NAFTA member and that of another member.

- Encourage each country to use risk communication techniques to share information and explain measures to consumers and other stakeholders. Recognition of and acceptance of international standards, guidelines and codes of practice as established by the Codex Alimentarius Commission (Codex), the World Organization for Animal Health (OIE) and the International Plant Protection Convention (IPPC).

- When international standards do not exist, recognition of the exporting country's standards and controls that are established through governmental regulatory science-based risk assessment.

- Collaboration between the exporting and importing countries to establish import tolerances and / or registration of products based upon scientific principles to assure compliance with domestic food safety standards.

- The recognition of and acceptance of safety standards and controls as above is to protect human, animal or plant life and health and to facilitate trade.

Transparency

The SPS chapter should include commitments to ensure that the public can comment on proposed measures and that producers understand the requirements they must meet in each country.

Import Checks

The SPS chapter should commit NAFTA members to ensure that import checks for SPS requirements are based on the actual potential risk posed by the import. In addition, the chapter should require members to inform importers or exporters within seven days if a shipment is being prohibited or restricted entry for a reason related to food safety or animal or plant health.

Emergency Measures

The SPS chapter should enable NAFTA members to take the emergency measures they deem necessary to protect food safety and human, animal and plant health. To discourage the use of such measures simply as a means of blocking market access, it should require members to disclose the scientific basis for them.

Certification

The SPS chapter should ensure that SPS certificates only require information related to SPS issues.

Equivalency and Regionalization

The SPS chapter should improve the communications and information exchange between governments when a NAFTA member is considering equivalency or regionalization requests. This will improve the predictability and the scientific basis for the other countries' decisions.

Food Safety Audits

The SPS chapter should promote the use of audits to assess the adequacy of another country's food safety regulatory system, consistent with the U.S. approach. In addition, the chapter should establish a process of communication among NAFTA members regarding the requirements, processes and procedures for conducting audits.

Cooperative Technical Consultations (CTC)

To help encourage the early and expeditious resolution of SPS matters, the SPS chapter should establish a consultative mechanism under which relevant agencies will work to find science-based solutions to SPS issues that emerge between NAFTA countries.

Dispute Settlement

Where the CTC mechanism does not resolve a matter, NAFTA members may use the agreement's dispute settlement mechanism to enforce most of the SPS commitments. However, to ensure that members have sufficient time to align their SPS procedures with the new NAFTA requirements, the application of dispute settlement should be phased in for certain provisions. The underlying WTO-based SPS obligations upon which the commitments in this chapter are based also remain subject to WTO dispute settlement.

Specific Regulatory Issues in the Meat and Livestock Sector to be Included

- **USDA should publish the rule recognizing Mexico as free from Classical Swine Fever**. The Animal and Plant Health Inspection Service of USDA (APHIS) in early 2016 concluded the risk of CSF from pork imports from Mexico was negligible. A proposed rule to allow pork imports from all Mexican states was drafted by APHIS but never was cleared by the last Administration for final review and publication. Given that APHIS has found negligible risk and that U.S. pork producers are dependent on export markets, USDA should expeditiously publish the rule.

- U.S. pork producers and live hog exporters are concerned that the export of live U.S. market hogs to Canada and Mexico may sometimes be encumbered by non-tariff-barriers. U.S. hog producers should have the ability to ship hogs north or south for harvest into pork and pork products when market circumstances make such shipments beneficial. The Province of Quebec apparently bans the import of live market hogs from outside the Province. That type of managed trade flies in the face of the spirit of NAFTA. Other non-tariff barriers may be imposed elsewhere in Canada and in Mexico. The United States should obtain a full accounting of all laws, regulations and policies in both nations with regard to live market hog imports. Additionally, the United States should work with U.S. live hog exporters and live animal importers in both nations on trial shipments to ensure that no barriers are in place and the market functions properly.

- Food safety technology approvals in all three countries should be harmonized. This should include harmonizing interventions and processing aids.

- True equivalence of meat safety systems should be implemented, to include:

    - Enhanced transparency on sampling (e.g., the rate of sampling, targeted pathogens, etc.) and on communication of test results, namely the nature of the tests performed.
    - Changes in sampling plans. Reducing sampling lot sizes would prevent meat product from being destroyed. (When cartons or packages are opened at the border, most importers opt to destroy the remaining product and not allow it into production channels as a precautionary step to eliminate the threat of adulteration. As a result, significant amounts of product that pass FSIS import inspection daily are unnecessarily destroyed.)
    - Institute a Laboratory Sampling Pilot Project. This project would test a process under which shipments would continue to be sampled at the direction of the importing county's regulatory agency for laboratory analysis, but the collection of the product to be sampled

would occur at the originating federally inspected establishments, including cold storage establishments.
  - Allow imported product designated (Labeled/Certified) intended for use in preparing "Artisan and other Fully-Cooked Ready to Eat (RTE) meat and food products" to move to federally inspected establishments for further processing without border testing.

- The establishment of a common "window" for an E-document transmission and communication system in the NAFTA region to facilitate review and clearance of meat shipments crossing common borders.

  - Including Canada and Mexico in the new electronic documentation system (called PHIS) that the USDA is rolling out starting June 29 of this year would be a tremendous achievement. Since they are two of our largest protein trading partners, this would be an immense help. If successful, this system could eliminate the need for trucks to carry hard copy documents and greatly improve border-crossing times while also avoiding routine inspection issues. This would be a natural application given the daily volume of shipments and technological advancement of both countries.

- Expansion of existing "trusted trader" programs to allow companies with facilities in multiple NAFTA countries with strong records of safety and reliability to reduce border inspection requirements when product remains under same-company control.

- Facilitating procedures on shipments from the United States to Mexico. The current transportation procedures create huge inefficiencies. A more effective method of moving frozen goods into Mexico involves allowing trailers and railcars to move through the border to Mexican cold storage facilities before SAGARPA inspects the meat. At present, all trucks are stopped at the border and inspected (and re-loaded onto Mexican trailers, etc.). Much time, money and efficiencies are lost by these inspections. In addition, no railcar reefers are in use today because of the required inspection of the U.S. meat at the U.S.-Mexican border crossing point. If we were able to ship via railcar reefers, transportation costs could be lowered and efficiencies increased.

- Allowing federally inspected facilities to host onsite inspection house (I-House) operations, regardless of proximity to border. This would permit imported product to bypass inspection at the border and be federally inspected at the destination facility.

- Harmonizing approval of processed product ingredients.

- Establishing equivalency agreements for label claims and quality-related specifications for government programs.

- Establishing equivalency and consistency in packaging material approvals, including labeling.

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