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Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico (USTR-2017-0006) Written Submission of Cargill

Cargill appreciates the opportunity to provide comments on the negotiating objectives for the upcoming renegotiation of the North American Free Trade Agreement (NAFTA). Cargill is a Minnesota-based provider of food, agriculture, financial and industrial products and services to the world. Our purpose is to nourish the world in a safe, responsible and sustainable way. Founded at the end of the American Civil War, our company is a true American success story that, growing from a single grain storage facility in 1865 into one of the largest privately owned businesses in the world, directly employing 150,000 people in 70 countries.

In the United States, Cargill directly employs more than 37,500 people at facilities across 40 states, with more than $13 billion in capital invested to date. Our primary business activities include the origination, storage and handling of grain and oilseeds, production of beef, poultry and egg products; animal nutrition products and services; food ingredients, including starches, sweeteners, malt, oils, and chocolate products; as well as salt and deicing technologies and plant-based bio-industrial products.

In Canada, we employ more than 8,000 people across 11 businesses, with locations from British Colombia to Quebec. Our primary business activities include the production of beef and poultry products; animal nutrition products and services; food ingredients, including starches, sweeteners, malt, oils, and chocolate products; and the origination and processing of commodities, such as canola. In Fiscal Year 2016, Cargill Canada imported more than $560 million in goods from the United States.

In Mexico, we employ 1,700 people at 30 facilities across 13 states. We provide services across the agri-food value chain, including the origination, storage and handling of grain and oilseeds, the production of food and beverage ingredients, the manufacturing of animal feed and premixes, and the sale of beef and turkey products. We also provide financial and risk management services to the Mexican market, where we have more than $600 million in gross total investment to date. In Fiscal Year 2016, Cargill Mexico imported approximately $1.3 billion in goods from the United States.

Cargill supports trade agreements that foster the interconnectedness of our food system, improve global food security, and reinforce the importance of rules in the global trading system. In the 23 years since its enactment, NAFTA has helped to open North American markets, connect supply chains, and provide consumers, both in the United States and abroad, with high-quality, safe, affordable food. Over the past 20 years, the U.S. food and agriculture industry has also changed, through new innovations and greater efficiencies. We believe the renegotiation of NAFTA provides an opportunity to reflect these developments in a modernized and improved agreement that more fully benefits farmers, food producers, manufacturers and consumers going forward.

I. NAFTA’s Contribution to the U.S. Agricultural Industry

Food and agriculture is one of the greatest success stories under NAFTA. Today, it’s estimated that one in every 10 acres on American farms is planted to support exports to Canada and Mexico. Canada and Mexico are significant buyers of U.S. products across the food and agriculture spectrum, from grains and oilseeds, to animal protein products, to ingredients for human and animal feed. Since the enactment of NAFTA, total U.S. agricultural exports to Mexico and Canada have quadrupled (from $8.9 billion in 1993 to $38.6 billion in 2016), supporting 15 million jobs in the United States alone. Together, the United States, Canada, and Mexico make up one of the most competitive and successful economic regions in the world, the success of which is largely due to our economic cooperation, integration, and policy alignment, fostered and strengthened by NAFTA.

Cargill is a prime example of how the highly integrated North American value chain contributes to expanding U.S. exports. For example:

- In 2016, Cargill processed more than 5.2 million cattle at our facilities in Texas, Colorado, Kansas, and Nebraska. Feeder cattle born in Mexico and Canada and fed and processed in the U.S. serve as a critical link in the value chain for the nearly 800 million pounds or $1.5 billion worth of beef products produced for the domestic market and exported globally each year. In addition to beef, Mexico is consistently the top destination for U.S. turkey products, valued at nearly $350 million last year. In 2016, Cargill exported over 250 million pounds of beef and turkey products to Mexico and Canada, valued at over $550 million.
- Cargill's facilities in Iowa, Illinois, Indiana, Kansas, North Dakota, Nebraska and Ohio processed nearly 20 million metric tons of U.S. corn and soybeans in 2016. Under NAFTA, the tariffs for these products went to zero, and today Mexico and Canada consistently serve as top export markets for U.S. corn and soy products, valued at $3.7 billion and $2.4 billion, respectively. These exports allow the U.S. corn and soybean industry to meet Mexico's growing demand for a diversity of food and feed products.
- At our vegetable oil refining facilities across the U.S., Cargill turns more than 500 million pounds of Canadian crude canola oil, imported from canola processing facilities like Cargill's state of the art facility in Clavet, Saskatchewan, into various refined oil blends. These oil refining facilities, like the ones in Des Moines and Sioux City, Iowa, create high value-add products that are a key input for consumer packaged good manufacturers and foodservice retailers. Our facility in Clavet also provides canola meal – a key input for U.S. dairy feed – to dairies across the United States, supporting enhanced milk production and more cost competitive U.S. dairy exports, a quarter of which are sold into Mexico. In total, it's estimated that Canadian-grown canola generates an average of $6.4 billion in annual economic activity in the U.S., including approximately 16,000 jobs each year as Canadian canola and its products are processed, transported, used in food manufacturing and fed to livestock.
- From a feed industry perspective, the Mexican and Canadian aquaculture industries rely heavily on U.S. exports of both macro- and micro-ingredients, including highly specialized feed products manufactured at our facility in Franklinton, Louisiana. These low-volume high-value exports play a critical role for our U.S. business. In Canada, Cargill manufactures finished aqua feed in Surrey, British Columbia, which is imported to the U.S. and used by the U.S. aquaculture industry in the production of high quality fish for the American market.

NAFTA has not only served to support integration and growth within North America, but has enhanced the competitiveness of our food and agriculture industry vis-à-vis the rest of the world, where more than 96 percent of consumers that live outside the United States. Because of the preferential treatment and alignment brought about by NAFTA, the U.S. food and agriculture industry not only has better market access to Canada and Mexico, but U.S. exports can more effectively compete in the global marketplace.

While exports are a critical driver of growth for our industry, investments also play a key role in fostering the overall growth of U.S. businesses. Cargill's investments in Mexico and Canada serve as a critical differentiator when serving customers in those markets. For companies like ours, close proximity and, in some cases, co-location to our suppliers and customers in Canada and Mexico is critical to our success. By enacting policies that support the creation of integrated value chains, NAFTA has enabled the United States to address food security across the world while also providing the food and agriculture industry economic security here at home.

For these reasons, we believe the renegotiation should not only serve to strengthen the U.S. position within in the North American economy, but also to improve the competitiveness of North American region within the global economy.

II. Guiding Principles for the Modernization of NAFTA

Cargill recalls the Administration's primary guiding principles for the NAFTA renegotiations, which is to "do no harm." In keeping with this principle, it is critical that any changes to NAFTA preserve and build upon the gains already made from the first 20-plus years of the agreement. Today, more than half of U.S. manufacturing jobs depend on exports, and nearly half of all exports of U.S.-manufactured goods are sold to the 20 countries that have eliminated barriers through free trade agreements with the United States.

Cargill urges the United States to maintain the benefits of market liberalizations achieved through NAFTA, and to refrain from withdrawing or otherwise adopting trade restrictions that could put integrated supply chains like those of Cargill at risk. Raising trade barriers or scaling back benefits to integration could pose significant risks to our business, impacting exports to America's top two export markets and affecting the livelihoods of millions of American farmers, workers and consumers.

Maintaining open markets is critical for the U.S. agricultural industry, especially with production growth outpacing domestic consumption growth in recent years, making the industry highly dependent on exports. In a time of global oversupply and low domestic prices, export markets serve as a critical outlet for excess U.S. supplies. In such an environment, Cargill is concerned that the adoption of any trade-restrictive measures could lead to trading partners raising trade barriers against U.S. exports, risking U.S. agricultural exports and jobs. We urge the Administration to consider the exposure that U.S. agricultural exports may face should the NAFTA renegotiations result in withdrawing any of the benefits currently provided through the agreement.

This possibility is being demonstrated with U.S. exports of corn-based sweeteners at risk of losing access to the Mexican market, threatening 4,000 U.S. jobs and a market worth $500 million. To this end, we applaud the Administration's recent decision to maintain continued sweetener trade between the United States and Mexico. This agreement, once ratified, will benefit many sectors of the U.S. economy and help maintain a strong and productive trade relationship with Mexico.

Recognizing the current benefits of NAFTA, we believe there are opportunities to modernize and improve the agreement in ways that preserve and expand on gains made as a result of open trade. A renegotiation provides an opportunity to modernize the agreement to include 21st century terms of trade, address outstanding non-tariff trade barriers, and achieve greater regional alignment that will unlock even greater economic and job growth.

We believe the goal of a NAFTA renegotiation should be a comprehensive, high-standard, and commercially meaningful agreement that eliminates trade barriers and promotes the unencumbered movement of goods, services, people and capital. Cargill has long held that high standard trade agreements should follow these core principles:

- The agreement must be commercially meaningful, including all products and all sectors
- It must address outstanding barriers to trade and investment with new solutions
- It must include strong, enforceable provisions to achieve meaningful trade liberalization; and
- It must facilitate the free movement of goods, services, people and capital

III. Specific Areas of Opportunity

Cargill urges the Administration to seek improvements to NAFTA in the following four areas: (1) market access; (2) non-tariff barriers and technical barriers to trade; (3) customs and trade facilitation; and (4) enforcement and dispute settlement.

A. Market Access

NAFTA eliminated duties and quotas for most agricultural products between the United States, Canada and Mexico, with a few exceptions. It is critical that we preserve and build upon current levels of market access, and work towards phasing out remaining market access barriers. In particular, we urge the Administration to seek the elimination of existing trade barriers in the following areas:

- Sugar and sugar-containing products;
- Dairy and dairy-containing products;
- Poultry and egg products

B. Non-Tariff Barriers (NTBs) & Technical Barriers to Trade (TBTs)

In our view, NTBs and TBTs present the greatest source of added cost and lost opportunity under NAFTA. These come in the form of regulatory requirements that lack transparency and scientific merit, the absence of mechanisms to resolve border disputes, and a lack of policy convergence on food safety and animal health systems. We therefore request that the Administration include in its negotiating objectives improvements in the following NTB and TBT areas:

- **Strengthen standards for sanitary and phytosanitary (SPS) measures, risk assessment and risk management** to ensure they are science-based, implemented in a transparent, predictable and non-discriminatory manner, and have specific obligations that make them more easily enforceable (such requirements were included in the Trans-Pacific Partnership (TPP) agreement with support from the business and agriculture communities);

- **Include a rapid response mechanism** to swiftly resolve trade interruptions related to SPS measures and TBT, including tighter standards and deadlines for adverse import checks;

- **Enhance transparency and cooperation on agricultural biotechnology and other production technologies** to ensure the marketability of U.S. crops, including an agreement to recognize equivalency in each country's Codex-based safety assessment system, and a practical approach to managing situations of low level presence (LLP) when asynchronous approvals of products occur;
- **Achieve greater convergence and mutual recognition of food safety and animal health regulatory systems** to address**:**
    - Unnecessary USDA inspection/testing for chemical residues and pathogens on shipments from Canada that reduces our ability to efficiently move product with a short shelf life;
    - Duplicative pathogen testing for meat products coming into the U.S. at inspection houses, which serves as a NTB to Canadian ground beef ($5 million market);
    - Allow imports of Canadian specified risk material (SRM)-removed meat and bone meal (a disadvantage to Canadian exports of $11 million annually);
    - Harmonization of meat cut nomenclature and beef grading equivalency ($10 million opportunity);
    - Requirements for original signatures for shipments, which causes shipment delays and demurrage costs;
    - Non-science based border-crossing requirements for U.S. grain and meat exports at the US-Mexico border;
- **Build on the US-Canada Regulatory Cooperation Council (RCC)** through the establishment of a joint US-Canada scientific program on food safety and animal health, to share knowledge and align standards around risk assessments and process validations, approval of food safety interventions and analytical methods, and the harmonization of inspection, sampling, and auditing;
- **Consider the development of a US-Mexico RCC** to advance a similar effort in the context of US-Mexico trade.

C. Customs & Trade Facilitation

While NAFTA has contributed significantly to eliminating tariffs, there remain substantial inefficiencies and a lack of predictability at the US-Mexico and US-Canada borders continue to add unnecessary costs to our business, impairing our ability to efficiently serve our customers. Therefore, Cargill urges the Administration to include in its negotiation objectives the following issues relating to customs and trade facilitation:

- **Leverage advances in border technology in all three NAFTA countries by utilizing a harmonized electronic data system** across all three markets, eliminating the need for hard-copy certificates of origin, which would reduce administrative costs and facilitate timely border crossing;
- **Eliminate the double payment of duty by removing restrictions on drawback and duty deferral programs**, which increase cost of production for U.S. businesses and undermine the price competitiveness of U.S.-produced products overseas;

- **Remove restrictions on the application of the de minimis rule for agricultural products,** particularly where those products are not available in the United States;
- **Take advantage of North America's network of free trade agreements** by allowing accumulation where all three countries have an FTA;
- **Simplify inventory control rules** for fungible goods comingling to better reflect current industry practices and better enable U.S. companies to demonstrate NAFTA qualification;
- **Modify NAFTA from an exporter-responsibility to an importer-driven system** to better align benefits with compliance;
- **Prevent country of origin labeling requirements** that could subject U.S. agricultural exports to billions of dollars of retaliatory tariffs

D. Enforcement & Dispute Settlement:

Cargill and the U.S. agriculture industry benefit greatly from duty- and quota-free access to Mexico and seek the same with Canada, with reciprocal access for Canada and Mexico. We believe that a fast, neutral, and binding dispute settlement process is essential to ensure that these benefits are maintained and fully enforced. However, we believe that NAFTA's dispute settlement and enforcement mechanisms could be improved in the following ways, and request that the Administration consider including these issues among its negotiating objectives for the modernization of NAFTA:

- **Maintain the Ch. 11, Ch. 19 and Ch. 20 mechanisms for investment disputes, while also seeking reforms that enable timely and less costly dispute resolution, such as those proposed in TPP.** These mechanisms, particularly chapters 11 and 19, are a critical insurance policy for U.S. agriculture and U.S. investors broadly, helping to ensure U.S. companies operating abroad have the same level of protection in foreign markets as they would receive in the United States.
- **Consider the risks to U.S. exports with the use of safeguards**, which could be misused to promote domestic production or retaliate against foreign trade barriers. This could have unintended consequences for agricultural products and create even larger trade disputes.
- **Modify the calculation method for anti-dumping cases** to recognize the reality of agricultural production and trade.

IV. Conclusion

As the global economy continues to grow increasingly integrated through new free trade agreements, we believe it is imperative for the United States to continue its leadership role of pursuing new opportunities with our global trading partners. Consistent with the President's stated commitment to support U.S. workers and grow the economy, we urge the Administration to pursue and maintain commercially meaningful trade agreements that allow U.S. producers and manufacturers to compete on a level playing field in the global marketplace. We believe a modernized NAFTA can accomplish just that – an opportunity to build economic strength through continued regional and global integration.

In summary, Cargill appreciates the opportunity to provide our views on modernization opportunities with NAFTA and we look forward to working with Congress and the Administration on this going forward.

Respectfully Submitted,

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