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Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico

The Northwest Horticultural Council (NHC) submits the following comments to the Office of the United States Trade Representative (USTR) to assist in establishing negotiating objectives for modernizing the North American Free Trade Agreement (NAFTA) (Federal Register Doc. 2017-10603). These comments pertain to apples (HTS 0808.10.00), pears (HTS 0808.30.00), cherries (HTS 0809.29.00), and peaches and nectarines (HTS 0809.30).

The Northwest Horticultural Council represents growers, packers, and shippers of apples, pears, and cherries (and other stone fruits) in the states of Idaho, Oregon, and Washington on federal and international policy. This Pacific Northwest tree-fruit sector generates more than $4.5 billion per year in direct sales.

Growers in our region produce approximately 77 percent of the fresh apples, 84 percent of the fresh pears, and 78 percent of the fresh cherries in the U.S. Roughly a third of the production is exported each year. Producers from the Pacific Northwest account for over 90 percent of the U.S. apple and pear exports and 65 to 75 percent of U.S. cherry exports.

Importance of NAFTA to the Apple, Pear, and Cherry Sector of the Pacific Northwest

Approximately 20 percent of the pear crop and 15 percent of the apple crop from the Pacific Northwest is shipped to Mexico and Canada each year, with Mexico being the number one, and Canada the number two, most commercially-important export markets for these products. Annually, these two markets are worth more than $97 million for pears and more than $345 million for apples annually.

We estimate that fruit shipments to Mexico and Canada support nearly 4,100 jobs in Central Washington and the fruit-growing regions of Idaho and Oregon.

NAFTA eliminated a 20 percent tariff from Mexico on apples, pears, and cherries that became effective on January 1, 1994. Exports of apples have increased to our southern neighbor by more than four million boxes since that time. Pear sales have increased by more than a million cartons under NAFTA. This represents a 70 percent increase for both products since this tariff was eliminated.

Canada is the top export market for cherries with annual sales approaching $100 million. Mexico is a growing cherry market with sales between $5 million and $10 million per year.

NHC Objectives for Negotiations with Canada and Mexico

Tariff Rates: The NHC's top priority is for the U.S. to maintain current duty-free access to Mexico and Canada for apples, pears, cherries, apricots, peaches, and nectarines. We are aware of reports that some producers are interested in imposing seasonal tariffs on U.S. produce imported by Canada and Mexico. Any attempt to negotiate seasonal tariffs should be strongly opposed.

Estimated Costs of Raising Tariffs: We have a real-world example to illustrate the cost of what a 20 percent tariff increase would mean for apples, pears, and cherries. Pears and cherries were targeted with a 20 percent retaliatory tariff in March of 2009 due to the United States' failure to comply with a NAFTA provision related to cross-border trucking, and just in the first seven months, we estimated the commercial impact to our pear growers to be $21 million. While Mexico is only the eighth largest market for cherries, growers lost an estimated $3.5 million during this period (which would account for the entire 2009 season). Apples were later added to the tariff list, and we estimated the commercial impact to be $44 million per harvest season.

Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Rules: Improving regulatory coherence and cooperation by implementing complete SPS-plus and Rapid Response Mechanisms would be a positive addition to NAFTA. So would strengthening protections against non-tariff barriers like TBT requirements; for example, achieving equivalency in organic trade certification requirements between countries. Ensuring that routine technical visits by regulatory agencies, such as those conducted by food safety and plant pest and disease entities, operate under clear guidelines and provide advance notice would also be constructive and facilitate trade. We urge USTR to negotiate such improvements with Mexico and Canada.

Trade Remedies: Canadian and Mexican apple growers have a long history of successfully convincing their respective governments to bring anti-dumping cases against U.S. apple growers, packers, and shippers. Canadian anti-dumping duties against U.S. apple growers were in effect from 1989 until 2000. Mexico apple anti-dumping duties existed from 1997 through 2010.

If renegotiation of NAFTA Chapter 19 is undertaken with Mexico and Canada, the U.S. should guard against provisions that would make it easier for fresh fruit producers in these countries to bring anti-dumping cases against U.S. fruit growers, packers, and shippers.

Any changes to the rules governing the use of a safeguard mechanism should be structured in such a way that season-to-season or seasonal changes in crop production or market dynamics do not trigger a temporary revocation of tariff preferences. A significant percentage of the apple, pear, and cherry consumption in Canada and Mexico is supplied by growers from the Pacific Northwest, and this has been the case for decades. The U.S. supplies 30 to 40 percent of the apples consumed in Mexico and Canada. Our growers provide 77 percent of the pears consumed in Mexico and 50 percent of the pears consumed in Canada. Mexico does not have a commercial cherry industry while Pacific Northwest and Canadian cherry growers have a history of selling significant volumes of their respective crops into each other's domestic market.

Unwarranted SPS Measures for Peaches and Nectarines (HTS 0809.30)

The NHC requests that USTR obtain phytosanitary access to Mexico for fresh peaches and nectarines (HTS 0809.30) under a systems approach protocol without requiring the presence of Mexican on-site inspectors to monitor the program. This market access request has been actively discussed by the Unites States and Mexico for 13 years (since 2004).

Peach and nectarine growers in Idaho, Oregon, and Washington are seeking access to the Mexican market under a systems approach protocol for control of *Grapholita molesta* (oriental fruit moth [OFM]). These same growers currently ship apricots to Mexico under a systems approach for OFM and also have successfully exported peaches and nectarines to British Columbia, Canada, under the OFM systems approach protocol proposed to Mexico. OFM has never been detected in stone fruit shipments to British Columbia, Canada, or in apricots to Mexico. Mexico is requiring the presence of on-site inspectors to monitor the program. This is not required for the apricot systems approach and is not needed for the peach and nectarine program. Mexico has explained that in order for the on-site verification requirement to be dropped it must first change its federal regulation making this a requirement. The NHC requests that USTR and USDA work with the Mexican government to make this regulatory change. This process was also followed in order for apricots to be exported to Mexico without the on-site inspector requirement.

Sincerely yours,

NORTHWEST HORTICULTURAL COUNCIL

Mark Powers
President

cc. NHC Trustees & Member Secretaries
NHC Foreign Trade Committee