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Representing Cargill, Incorporated

Ways & Means Subcommittee on Trade: Enforcement in the New NAFTA

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I would like to thank the Committee for inviting Cargill to testify today regarding the merits of the enforcement provisions included in the USMCA. At the outset, it's important to note that the approval of the USMCA is critical for the farmers, ranchers, food-production workers, small business owners, and many other people in communities across the United States who depend on the food and agriculture industry for their livelihood. Broadly, Cargill supports USMCA because the agreement offers an opportunity for not only growth of our business, but the agreement is essential for our business.

At Cargill, we believe trade agreements should not come at a cost to society, but rather should facilitate strong labor and environmental outcomes for all countries engaged in the agreement. In fact, we know that trade agreements such as USMCA are mechanisms to advance sustainable development, but in order to do so, the agreements need strong enforcement provisions to hold the parties accountable to the provisions within. Thus we are pleased that both the labor and environment chapters are modernized and fully incorporated into the agreement.

We believe that trade agreements must reflect the values that Americans hold dear, including treating workers with dignity and respect, and protecting and repairing the environment that stands as our legacy to our children. When Cargill operates abroad – as we do in 76 countries – like most of the best American companies we strive to ensure that our global operations fully incorporate the same principles that we strive to achieve at home, including fair treatment of our workers, and environmental sustainability.

Furthermore, we share the view, expressed by many of the members of this Committee, that trade agreements must be enforceable. Mechanisms for enforcement should be incorporated into every trade agreement, creating specific procedures that are effective, expeditious, objective and binding. The mechanisms should foster productive consultations to resolve disputes before the need for formal dispute settlement proceedings and promote the timely and effective resolution of all disputes. Those enforcement mechanisms should apply to all commitments under the trade agreement, whether they relate to labor, environment, standards on fair competition and non-discriminatory treatment, market access or any of the other elements.

Cargill

Now some brief background about our company. Cargill is a Minnesota-based provider of food, agricultural, financial and industrial products and services to the world. Our purpose is to nourish the world in a safe, responsible and sustainable way.

One hundred and fifty-four years ago, we began as a single grain storage facility in Conover, IA, working to store grain for Iowan farmers. Today, we are one of the world's leading traders of agricultural commodities, providing a channel for thousands of American ranchers and farmers to reach consumers

in the U.S. and around the world. Our diversified business is part of the largest manufacturing sector in the United States – food processing employs 1.6 million of the 12.8 million Americans working in manufacturing. (April 2019, BLS)

In the United States, Cargill directly employs more than 37,500 people at facilities across 40 states, reflecting more than \$13 billion in capital invested to date. We operate in more than 275 communities around the United States, and in fiscal year 2018 contributed more than \$57.1 million globally to causes important to the communities where we live and work. Our investments in these communities have more than an impact on employment – Cargill is committed to conducting business with integrity, operating responsibly, enriching these communities through economic development, charitable giving, employee volunteerism and partnerships.

We also seek to directly engage our employees in the conversation on why trade matters. In 2017, we launched FedbyTrade™, a platform designed to engage our employees, customers, suppliers and consumers alike on why trade matters and share their personal stories on how trade impacts their lives.

NAFTA's Contribution to the U.S. Agricultural Industry

Food and agriculture is one of the greatest success stories under NAFTA. Today, it is estimated that one in every 10 acres on American farms is planted to support exports to Canada and Mexico. Since the enactment of NAFTA, total U.S. agricultural exports to Mexico and Canada have quadrupled (from \$8.9 billion in 1993 to nearly \$40 billion in 2018, a 350% increase). Together, the United States, Canada, and Mexico make up one of the most competitive 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 Cargill 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 21 million metric tons of U.S. corn and soybeans in 2018. 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 food-service 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.

- The Mexican and Canadian aquaculture industries rely heavily on U.S. exports of both macro and micro feed 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.

Cargill's investments in Mexico and Canada serve as a critical differentiator when serving customers in those markets. These investments help us win customers in those countries, and directly generate exports from the U.S.

- In Canada, we employ more than 8,000 people across 11 businesses, with locations from British Columbia 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 2018, Cargill Canada imported more than \$256 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 2018, Cargill Mexico imported approximately \$801 million in goods from the United States.

NAFTA has been highly successful, but it is not surprising that occasional disputes arise in a trading relationships of that magnitude. Thus, the built-in enforcement mechanisms are essential. Cargill itself has utilized those mechanisms. Several years ago, Mexico sought to protect domestic sugar producers against imports of sweeteners from the U.S. by imposing anti-dumping duties with no real basis in fact. We and our industry partners successfully challenged those, using NAFTA's anti-dumping dispute mechanism (also known as Chapter 19). Mexico dropped those tariffs and refunded the duties we had been forced to pay. Shortly after, Mexico attempted to achieve the same result by enacting a 20 percent tax on beverages sweetened with imported sweetener versus domestically produced sugar. Based on our investments in Mexico, we were able to challenge the action using Chapter 11, the Investor-State Dispute Settlement mechanism, which resolved the tax and resulted in the payment of damages. More importantly, our success in both cases caused Mexico to eliminate all of those barriers, reopening a market that today is worth almost \$500 million per year of US exports – including but not exclusively from Cargill – and thousands of American jobs.

USMCA Must be Approved

While NAFTA has become vital to the prosperity of America's food and agricultural sector, it is a 25-year-old agreement, and like most 25-year olds can be improved. We congratulate Ambassador Lighthizer and his team, as well as his Mexican and Canadian counterparts, for achieving a valuable modernization of NAFTA, which we call USMCA. Passage of USMCA is critical to secure our positive trading relationships with our two most important trading partners, Mexico and Canada, to lock in the positive new gains of the agreement, and to strengthen the position of the United States to deliver on our future trade aspirations.

Each of us might highlight different chapters as worthy of particular mention, and we welcome the broad-based support that creates. For example, we welcome the fact that the labor and environment chapters have been brought fully into the agreement and have been modernized to become the most advanced such chapters in any of our trade agreements.

For Cargill, of course, we focus on the improvements that directly benefit our sector – generally by improving market access, reducing non-tariff barriers, eliminating the ability of our trading partners to discriminate against U.S. foods products and cutting red tape at the border.

- The centerpiece is **market access** – USMCA assures the continued tariff-free movement of almost all goods among the three countries and achieves additional access in the remaining protected sectors such as Canadian dairy, poultry and eggs with reciprocal opening of US markets.
- The improved **sanitary/phytosanitary measures (SPS)** align our three countries around similar processes to ensure the safety of our food supplies based on solid scientific grounds. These provisions are critical to prevent disguised discrimination against U.S. food and agricultural products in our two largest foreign markets and are a strong template for future U.S. negotiations with other major trading partners.
- Important improvements were agreed on **customs and trade facilitation**, for example simplifying and modernizing customs declarations to eliminate unnecessary and costly red tape at the border.
- The chapter on **good regulatory practices** will promote transparency and best practices in development of regulations that are so important to the functioning of modern economies.
- The new disciplines on **State Owned Enterprises** limit anti-competitive activities by those SOEs, helping build precedents for rules that could apply in other agreements as well.
- The new rules on **digital trade** fill a gap that was not addressed in NAFTA, creating a forward-leaning modern set of rules that will facilitate electronic commerce and the data flows that virtually all industries increasingly rely upon.
- The new provisions on **anti-corruption** are a welcome innovation, that could help level the playing field as our competitors are obliged to respect the same compliance standards that we carefully respect.

Enforcement is Critical

To ensure these and other stronger outcomes in the USMCA – provisions that are substantially advanced from the original NAFTA across commercial, labor and environmental issues – having effective, expeditious, objective and binding dispute settlement provisions is vital.

Of particular importance is state-to-state dispute settlement. Assuring a more effective dispute settlement mechanism in Chapter 31 will enable the United States to hold Canada and Mexico accountable if they deviate from their obligations to all major provisions of the USMCA. Unlike the original NAFTA, USMCA's dispute settlement mechanisms apply equally to not just the commercial provisions of the agreement, but also to the substantially improved obligations relating to labor and environmental practices. Full implementation of the final USMCA is vital to ensure that the many robust provisions of the USMCA are realized for the benefit of American workers, consumers, communities and industries. Objective, effective, expeditious, and binding resolution of disputes is part of that process of ensuring implementation and one that Cargill and the broader business community strongly support.

Both farming and manufacturing require investments to grow, and those investments are made based on expectations of what the market opportunities will be many months, or even years in the future. Farmers plant their seeds, deciding how many acres and what crops, based on what they think the market opportunity will be in the future. Trading and manufacturing companies like Cargill invest in transportation and processing assets based on similar expectations. Trade agreements, like USMCA, expand those market opportunities, driving greater investment and job creation in the U.S. But that only works if we believe the agreements will be enforced. Doubts about enforcement, or reliance on arbitrary and political procedures for enforcement, increase the uncertainties about access to those future markets. That increased risk has a direct and negative impact on our ability to expand our business in the U.S.

In conclusion, my main points are:

(1) it is vital that Congress help provide some certainty for US farmers, ranchers and manufacturers by **approving as soon as possible the USMCA**, and

(2) we share the view with members of this Committee and panel that prompt and effective **enforcement mechanisms must be an integral part** of every trade agreement, ensuring that all commitments made by the parties to the agreement will be faithfully implemented.