

HEIDI HEITKAMP  
NORTH DAKOTA  
HART SENATE BUILDING 110  
WASHINGTON, DC 20510  
PH: 202-224-2043  
FAX: 202-224-7776  
TOLL FREE: 1-800-223-4457

<http://www.heitkamp.senate.gov>

## United States Senate

WASHINGTON, DC 20510

April 13, 2016

COMMITTEES:  
AGRICULTURE, NUTRITION AND FORESTRY  
BANKING, HOUSING AND  
URBAN AFFAIRS  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
INDIAN AFFAIRS  
SMALL BUSINESS AND ENTREPRENEURSHIP

The Honorable Michael Froman  
United States Trade Representative  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador Froman,

I write to highlight a trade barrier North Dakota's grain producers face when exporting to Canada and ask for your analysis of the consistency of Canada's policies with their international trade obligations. As was highlighted last week, the Office of the U.S. Trade Representative (USTR) has made great progress in documenting and combatting export barriers, and I hope this issue receives more intense attention and action.

Specifically, I am concerned about Canadian policies which prohibit U.S. wheat and barley growers from receiving a fair price when delivering their grain to Canadian elevators. This issue has been mentioned in USTR's National Trade Estimate, and was also reported on in detail by the U.S. Department of Agriculture (USDA) pursuant to a provision I included in the Agriculture Reauthorizations Act of 2015 (PL 114-54). In the report, USDA outlines a number of policies which hinder North Dakota producers' ability to receive a premium grade designation in Canada, and the resulting price discount associated with the lower grade.

Under Canada's grading system, wheat grown in North Dakota is unable to receive a premium grade, even if the wheat was of a variety registered in Canada. The fact that it was grown in the United States and not Canada prevents Canadian elevators from providing premium grades, and requires that the grain be labeled as "foreign." This results in *de facto* segregation of U.S. grown grain and a reluctance from Canadian grain handlers to handle U.S. grain in their bulk handling system. This segregation is due to Canadian requirements that if the U.S.-grown grain is comingled with Canadian-grown grain, the resulting grain would not be eligible for an official grade and would have to be labeled "mixed Canadian and foreign grain." This results in a price discount for our growers.

North Dakota's producers have seen this discrimination first hand for years, and in its report to Congress, USDA states these policies encourage both a price discounting of high-quality U.S. grain and *de facto* segregation. This represents an unfair trade barrier, and in my opinion, one that is out of line with Canada's trade obligations. In fact, the segregation and price discounting associated with this policy remind me of Canada's complaints about the United States' country of origin labeling regime.

I ask that you provide USTR's opinion on the consistency—or lack of consistency—of these policies with Canada's trade obligations, including specific provisions of the General Agreement

BISMARCK OFFICE:  
228 FEDERAL BUILDING  
220 EAST ROSSER AVENUE  
BISMARCK, ND 58501  
PH: 701-258-4648  
FAX: 701-258-1254

DICKINSON OFFICE:  
40 1ST AVENUE WEST  
SUITE 202  
DICKINSON, ND 58601  
PH: 701-225-0974  
FAX: 701-225-3287

FARGO OFFICE:  
306 FEDERAL BUILDING  
657 SECOND AVENUE NORTH  
FARGO, ND 58102  
PH: 701-232-8030 - 1-800-223-4457  
FAX: 701-232-6449

GRAND FORKS OFFICE:  
33 S. 3RD ST., SUITE B  
GRAND FORKS, ND 58201  
PH: 701-775-9601  
FAX: 701-746-1990

MINOT OFFICE:  
105 FEDERAL BUILDING  
100 FIRST STREET S.W.  
MINOT, ND 58701  
PH: 701-852-0703  
FAX: 701-838-8196

on Tariffs and Trade, the WTO Technical Barriers to Trade Agreement, North American Free Trade Agreement, or other relevant U.S.-Canada agreement.

Thank you for your hard work to open up markets and combat trade barriers on behalf of North Dakota's agricultural producers and small businesses. I look forward to continuing to work with you to address this issue.

Sincerely,

A handwritten signature in black ink that reads "Heidi Heitkamp". The signature is written in a cursive style with a large, prominent 'H' and a long, sweeping underline.

Heidi Heitkamp  
United States Senator