



3103 10th Street, North, Suite 300
Arlington, Virginia 22201

Comments Regarding Foreign Trade Barriers to U.S. Exports for 2018 Reporting

USTR-2017-0013

Full NTE Submission

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The following is a submission for the 2018 National Trade Estimate Report on Foreign Trade Barriers as requested by the Office of the United States Trade Representative. These comments are on behalf of U.S. Wheat Associates (USW).

Open markets and fair trade are critical to the U.S. wheat industry as roughly half of U.S. wheat production is exported each year. U.S. wheat farmers have a competitive advantage in producing wheat and the United States is one of the largest exporters of wheat in the world. Ensuring a fair playing field for U.S. producers facilitates wheat exports, bringing revenue and jobs to rural America.

In the most recent 2016/17 marketing year (MY), the United States exported 28.7 million metric tons (MMT) of wheat, valued at \$6 billion. World wheat trade in 2016/17 reached 182 MMT, with the United States accounting for 16 percent of global exports. This was a 36 percent year over year increase from MY 2015/16.

Binding and Enforceable WTO Commitments

The trade barriers identified often reflect perceived violations of the World Trade Organization (WTO) agreements or other relevant trade agreements. WTO disciplines in particular are effective because they are enforceable. Underpinning the work that goes into this submission is the belief that enforceable trade commitments help resolve trade barriers. Thus, USW strongly supports the WTO dispute settlement system, an effective Appellate Body, and an aggressive, WTO-centric trade enforcement agenda as the best means to eliminate foreign trade barriers.

The WTO rules are the trade policy foundation, but major gains can be made through negotiating high-standard bilateral or plurilateral free trade agreements (FTAs). Negotiations themselves are

an opportunity to solve trade barriers, as are new commitments made once an agreement is reached. It should also be very clear that USW does not see violations of trade agreements as reasons for abandoning or renegotiating agreements.

There are a number of barriers and policies around the world that restrict wheat trade. Several of these are common constraints across multiple markets, while other barriers are market specific. Details on general trade barriers as well as country specific issues that limit exports for U.S. wheat farmers have been identified along with their effects on U.S. wheat exports.

Traditional trade barriers, e.g. tariffs, are still one of the biggest impediments to agricultural trade, even when imposed in full compliance with a country's WTO commitments. This submission will not provide separate sections on these tariff barriers, but they are still a major impediment to U.S. wheat exports in many parts of the world.

Preferential Trade Disadvantages

The number of free trade agreements globally is increasing at a rapid pace. The United States has not completed an agreement since the U.S.-Korea FTA that was negotiated in 2007. Meanwhile, our competitors are aggressively negotiating new market access. Argentina, Australia, Canada, Russia, the Ukraine, and the European Union (EU) have concluded or are negotiating agreements with wheat importing countries that put U.S. wheat farmers at a price disadvantage due to tariff differences. The United States must be active in pursuing new trade opportunities both to maintain and increase export opportunities for U.S. wheat producers.

Domestic Support Violations

Domestic subsidies that exceed WTO commitment levels encourage production, eliminate trade opportunities and lower global wheat prices, reducing revenue to U.S. wheat producers. The use of high support prices often results in surplus stocks, which sometimes become subsidized exports. A number of wheat producing countries, especially advanced developing countries, are providing trade distorting subsidies beyond their allowable commitments through input subsidies and market price supports. The U.S. challenge to China's price support program at the WTO (DS511) was an important first step in correcting this trend.

SPS Barriers

Sanitary and phytosanitary (SPS) regulatory standards around the world are a concern for USW because these standards often disrupt trade. Since the conclusion of the Uruguay Round, which strengthened SPS rules and placed restrictions on the use of tariffs and quotas, importing countries have devoted more resources to developing and enforcing SPS regulations, which have proliferated. New food safety standards are also being implemented. In some instances, USW questions whether these SPS requirements are based on sound science and use the least trade distorting measures, or instead are based on misperceptions or are motivated by purposes other than those allowed by the SPS agreement.

Plant health regulations present some of the most intractable problems as some importing countries demand freedom from one or more pests that occur in the United States and may be present in wheat shipments. Plant health restrictions of most concern involve wheat diseases

(most often fungal diseases) or weed seeds. Weed seed requirements can be very difficult if not impossible to meet because grain cleaning systems cannot remove all weed seeds and grain inspectors at export points do not have the time or expertise to recognize even a fraction of the weed seeds that may be present. It is critical that scientific risk assessments are conducted to validate these new regulations as they have the potential to eliminate the United States completely as a supplier to markets that have been historical customers.

Residue and contaminant requirements are also proliferating. Many, if not most, importers now have regulations concerning pesticide residue tolerances. Once those are in place, limits on mycotoxin and heavy metal (cadmium and lead) content often follow. Generally, U.S. wheat conforms to these requirements, but the spread of requirements and the uncertainty of differing requirements (testing delays, false positives, or uneven enforcement) can discourage trade.

Biotechnology and Plant Breeding Innovation

Regulations limiting the import of commodities derived through biotechnology are a concern to USW. While biotech wheat is not expected to be in commercial production in the United States for a number of years, well-entrenched resistance to acceptance of commodities produced via biotechnology is a concern that inhibits progress toward development of biotech wheat varieties. The lack of standard tolerances for low level presence can disrupt trade for commodities that do not even have commercial biotech varieties in production. The U.S. government's efforts to ensure that regulations regarding the trade of commodities derived through biotechnology be based on scientific evidence is fully supported by USW.

Additionally, as new plant breeding innovations are used more often, it is important that a distinct regulatory line be drawn between traditional biotechnology and other technologies that can result in new varieties without the presence of foreign DNA. USW encourages the U.S. government to closely monitor regulatory discussions on this topic and ensure that these technologies are not automatically categorized as "biotechnology" for the sake of regulation.

The following sections provide specific examples of foreign trade barriers.

BRAZIL

Market Access. Brazil agreed to a tariff rate quota (TRQ) under the Uruguay Round agreement, allowing for 750,000 metric tons (MT) of wheat to enter duty-free each year. However, Brazil never implemented this commitment, and in 1996, notified the WTO of its intention to eliminate it through Article XXVIII proceedings. To date, Brazil has neither fully implemented nor officially eliminated the TRQ. As part of the Uruguay Round TRQ commitment, the United States obtained initial negotiating rights. Brazil cannot eliminate this commitment unilaterally and must work with the United States to reach an acceptable agreement for implementing the WTO TRQ commitment or finding an alternative that is acceptable to the United States. Brazil did confirm the TRQ's existence in five WTO notifications since 1996 dated May 2003, March 2009, November 2012, January 2015, and October 2016.

Brazil's wheat duty is bound at 55 percent and currently applied at 10 percent. A zero duty TRQ would provide valuable trade opportunities for the United States and other wheat exporting WTO country members. USW appreciates the administration's work so far in negotiating a resolution to the TRQ issue with Brazil. We encourage continued discussions to implement a solution that increases U.S. wheat's access to this market.

It should be noted that Brazil has successfully set up duty free TRQs for wheat in the past, though not specific to its WTO commitment. Brazil implemented a 2.0 MMT zero duty wheat TRQ from January 1 to August 31, 2008, a 3.0 MMT TRQ from April through November 2013 and a 1.0 MMT TRQ from June through August 2014. These instances illustrate that Brazil is capable of establishing and managing a zero-duty TRQ system that would make Brazil compliant with its WTO commitment.

Domestic and Export Subsidies. Every WTO member nation is required to report trade distorting domestic subsidies to the WTO, known as the aggregate measure of support (AMS), which is subject to various caps. Countries also have an allowance for *de minimis* spending as a percentage of general and product specific production. Developing nations, such as Brazil have a *de minimis* cap of 10 percent.

Brazil's calculation methodology for its price support program should be questioned, as it does not include all wheat production, understating the notified level of support. The variation in support spending year on year is a common feature of Brazil's notifications given their incorrect methodology on eligible production.

Analysis by DTB Associates, based on numbers from Brazil's WTO notifications, found that Brazil exceeded its product specific *de minimis* subsidy limits for wheat in 2007/08, 2008/09, 2010/11, 2013/14, and 2014/15.

There is also good reason to believe that the the Premio para Escoamento de Produto (PEP) program and the Premio Equalizador Pago ao Produtor (PEPRO) programs act as export subsidies for wheat. These programs are actually structured in a similar manner to the former U.S. "Step 2" program that was used for cotton, which Brazil successfully challenged at the WTO. The U.S. lost on the argument that Step 2 is not an export subsidy because domestic destinations as well as export destinations were eligible for the subsidy. These programs were inactive for wheat in 2015, but resumed in 2016. Last year, wheat exports under PEP and PEPRO nearly reached a million tons.

Merchant Marine Renewal Tax. U.S. wheat imports are subject to a 25 percent merchant marine renewal tax (MMRT) on freight costs. The MMRT applies to all wheat arriving from outside of Argentina and other members of the Latin American Integration Association (LAIA) to ports from Bahia, Salvador and south. In the northeast of the country, mills must submit an application to be exempt from MMRT payments.

The MMRT is supposed to finance development of the Brazilian merchant fleet and shipyard industry, but the tax is only applied to imports – exports are exempt even though Brazilian agricultural exporters are heavy users of Brazilian shipyards.

As understood from WTO language, additional tariffs like the MMRT are only supposed to cover the cost of service and a 25 percent tariff on ocean freight seems excessive (GATT Article VIII). Exported goods are also exempt, even though export shippers are heavy users of Brazil's ports. Brazil's MMRT may be in violation of GATT Articles I, III, and VIII.

SPS – Plant Health. Brazil maintains burdensome bans on pests that likely are unsuitable to its climate and farming practices, yet these onerous SPS requirements have been included in their import regulations for years. USDA's Animal Plant Health Inspection Service (APHIS) has repeatedly tried to negotiate with their Brazilian counterparts on the removal of phytosanitary restrictions on U.S. wheat.

Currently, Brazil only allows imports of certain wheat classes and excludes shipments from the U.S. West Coast ports. These restrictions have been based primarily on two diseases, flag smut (*Urocystis agropyri*) and cephalosporium stripe. Flag smut is also present in Argentina, but Brazil allows Argentine imports without restriction. Cephalosporium stripe requires climatic conditions, namely repeated freezing and thawing of ground in the spring to cause root damage, which are unlikely to occur in Brazil, and the disease is very unlikely to be conveyed in grain shipments.

There is also a risk that Brazil's unwarranted restrictions on flag smut and cephalosporium stripe could be adopted by other importers and would then cause further economic loss to U.S. wheat growers.

Brazil's response in trying to address these specific issues has been to threaten reconsideration of all possible quarantine pests in wheat with the possibility of finding new restrictions, despite having identified no actual quarantine problems in U.S. wheat shipments. This situation has been going on for 15 years or more with little sign of progress.

SPS – Pesticide Registration. Brazil recently announced that it would begin testing for pesticide residues in imported grains, including wheat, and enforcing their existing maximum residue limits (MRLs). Brazil does not recognize Codex MRLs for pesticides which have not been registered in Brazil. Brazil has set an unjustifiably low MRL for glyphosate of 0.05 ppm despite the U.S. and Codex MRLs of 30 ppm and the lowest set elsewhere among wheat importing countries of 5 ppm in Japan and Korea. Brazil also does not have an efficient registration process for import tolerances and requires all registrants to go through the process used for pesticides that are to be marketed in Brazil. This process reportedly is very lengthy and onerous, which discourages companies whose products may be used widely elsewhere but which will not be marketed in Brazil from making the effort.

Impact. Brazil is a major wheat importer, purchasing 6.8 MMT on average over the last five years, which varies with the size of their domestic crop. U.S. market share averaged less than 10

percent for the five marketing years from 2008/09 to 2012/13, but was nearly 60 percent in 2013/14, a year when Argentina was unable to meet Brazil's import needs.

If Brazil were to implement a duty free wheat TRQ of 750,000 metric tons, U.S. trade opportunities would increase. Even under a conservative scenario, if U.S. suppliers receive only half of the annual allocation, more stable sales under the TRQ would increase competitiveness and result in approximately \$75 million in annual U.S. wheat sales at today's prices. Under the 2008 duty free TRQ, the U.S. exported 907,000 MT of wheat. In 2013/14, the U.S. exported 4.3 MMT and in 2014/15 exports totaled 1.5 MMT. When a temporary quota has been implemented, the United States has been the major beneficiary. A 2013 study funded by USW estimated Brazil's failure to implement the TRQ caused a \$1.3 billion loss to the U.S. wheat industry between 1997 and 2012.

Brazil sometimes encourages wheat production through trade distorting domestic subsidies. Ensuring that spending complies with WTO commitments could result in lower production, which would provide increased trade opportunities to U.S. producers.

An econometric study conducted by Iowa State University economists using the CARD-FAPRI model estimated that removing product-specific subsidies for wheat in Brazil would increase U.S. farm gate revenue by \$23 million and increase net exports from the U.S. by 35,000 tons relative to a baseline scenario.

Furthermore, Brazil's PEPRO program can act as an export subsidy that undercuts U.S. producers in other markets. Brazil's WTO export subsidy limit is zero.

Increased competitiveness from Brazil's compliance to domestic support spending, ensuring no export subsidies are used, eliminating the MMRT, as well as full implementation of a TRQ could add between \$100 and \$500 million in annual U.S. wheat sales. At times when West Coast wheat prices might be competitive to Brazil, those shipments could lead to an additional economic gain of \$5 to \$25 million without the SPS prohibitions.

CANADA

Market Access. Canada has a number of policies in place that put U.S. wheat imports at a competitive disadvantage. Canada maintains that the policies are necessary to ensure that foreign grain is not misrepresented as Canadian grain in third-party countries.

The primary market access barrier to Canada is that regardless of variety, all foreign grown grain automatically receives the lowest designation in the official grading system. This has a negative impact on export opportunities to Canada as it results in de facto segregation. Even if the wheat is an approved Canadian variety and of high quality, the result is the same. This puts U.S. grown wheat at a serious disadvantage as it does not have equivalent access to Canada's bulk handling system.

The variety registration system (VRS) is also overly burdensome, involving criteria unrelated to quality or marketing to achieve a class designation. This includes agronomic requirements. While the VRS has been modernized over the past several years, the system still only allows a small amount of U.S. test plot data to be used, which makes it difficult for U.S. developers to register their variety in Canada, especially in cases where the primary purpose of registration would be for importation, where agronomic concerns are irrelevant. This restrictive process of registering U.S. wheat varieties in Canada is not a practical solution. Of current U.S. wheat acres, 20 percent of HRS in North Dakota, 7 percent of HRS in Minnesota and 1 percent in Montana are planted to varieties registered in Canada (CNHR, CWRS, and CPSR). Likewise, 4 percent of HRW in ND and 4 percent of HRW in MT are planted to varieties registered in Canada. 8 percent of durum in MT and less than 1 percent of durum in ND is registered in Canada.

Export Subsidies. Canada has a highly regulated rail system that effectively lowers the costs of exporting wheat by capping the amount of revenue the two major Canadian railroads can earn hauling grain in Western Canada (the primary wheat production region). Rail rates limited by statute, rather than the market, lower the transportation costs that exporters must pay for grain. This in turn means that Canadian exporters can undercut U.S. exporters who often would have purchased wheat from a similar distance inland. Other policies also reduce the costs to exporters of Canadian rail movements, such as state provision of free hopper cars for grain moved to export points.

The rail rates apply only to routings within Western Canada as long as grain is moving to a port on the Pacific or Thunder Bay on Lake Superior. Effectively this means the grain will be exported at lower rates than similar routings within the U.S. to either Pacific ports or Duluth on Lake Superior, giving Canadian exports an unfair advantage in international markets. The Canada Transportation Act statute is explicit that grain moving west is only eligible for the revenue cap if it is exported, while exports moving east also clearly benefit from the caps. By reducing the costs of exporting, the Canadian government is effectively providing subsidies within the meaning of Article 9.1 of the WTO Agreement on Agriculture.

Impact. Canada's foreign grain designation and varietal registration system have been ongoing concerns as Canada transitioned to an open market. While U.S. producers have the option to market high quality grain directly to processors through various contract specifications, the system precludes equivalent use of the bulk storage, handling and distribution facilities in Canada, resulting in a competitive disadvantage. This barrier has remained in place for a number of years despite Canadian wheat receiving market-based and equitable classification in the United States.

While the market demand in Canada for U.S. wheat is not large, the U.S. is Canada's largest wheat customer, and equitable border treatment should be a high priority on both sides of the border. Removal of these trade barriers could result in U.S. producers delivering U.S. grown wheat into Canada's bulk handling system if market forces were allowed to function properly. While difficult to estimate, we believe that the current policies result in a loss of up to \$50 million in trade opportunities and note that these policies have a disproportionate effect on

producers in Northern tier states. In fact, we estimate that more than 3 MMT of wheat in Montana, North Dakota, and Minnesota is within 50 miles of a Canadian elevator, including 25 percent of North Dakota’s wheat production.

In export markets, Canada is one of U.S. wheat’s most significant competitors, particularly in spring wheat and durum markets. While this would not change if Canadian rail policies were reformed, rail rates that are well below U.S. rates clearly help Canada out-bid U.S. exports in competitive pricing situations. Econometric analysis on this point is lacking, but given the size of the North American spring wheat market, it is not unreasonable to expect that this could increase U.S. wheat exports in the \$50-100 million range.

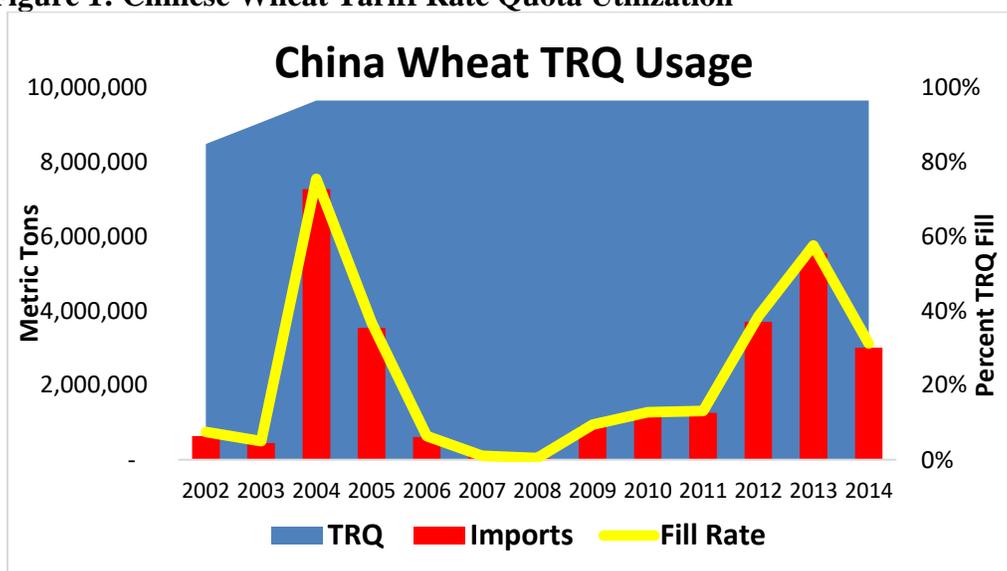
CHINA

Market Access.

China committed to an annual 9.64 million metric ton (MMT) tariff rate quota (TRQ) with one percent duty when it joined the WTO. Ninety percent of the TRQ is reserved for imports by state trading entities (STEs), with ten percent of the quota allocated to private sector importers. A series of transparency and reallocation requirements in China’s accession protocol, if adhered to, should ensure a reasonably functioning TRQ process.

As a rule, private importers have used their TRQ fully in recent years, as foreign wheat is attractive from quality and price points of view. This has meant any re-allocated quota in recent years, must come from the 90 percent STE portion, most of which has not been used. But, the reallocation of the vast majority of unused TRQ never occurs. China’s failure to abide by its WTO commitments related to administration of the wheat TRQ is reflected in low TRQ utilization rates. In most years, TRQ utilization has been about one third of total TRQ volume, and in some years has dropped to even lower levels.

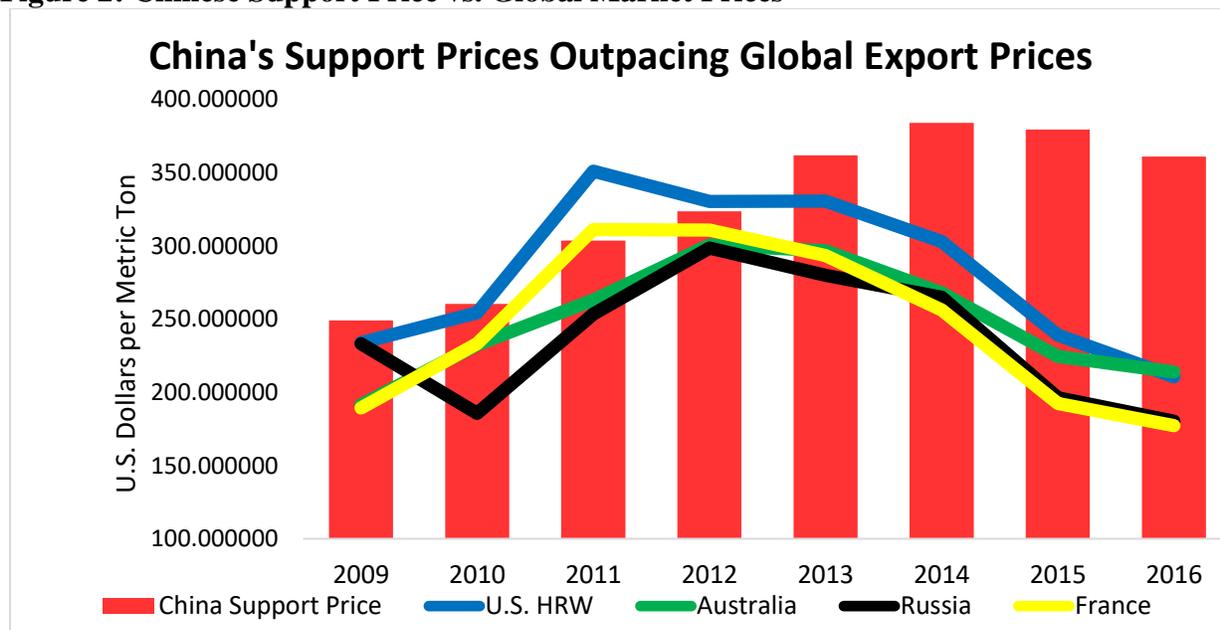
Figure 1: Chinese Wheat Tariff Rate Quota Utilization



Of course, the WTO does not require that TRQs fill every year. TRQ fill rates *should* depend on market conditions. But this low utilization rate has taken place in spite of the fact that Chinese wheat prices, which closely track China's price support for wheat of around \$10 per bushel, are consistently far higher than international wheat prices. In the absence of the restrictions that China imposes through TRQ administration, the United States and other suppliers would be selling large quantities of wheat to China, putting TRQ utilization at or near 100 percent.

As Figure 2 shows, there is no reason in recent years why Chinese importers would choose not to import wheat when the Chinese support price has been so much higher than global market prices.

Figure 2: Chinese Support Price vs. Global Market Prices



China's failure to reallocate unused quota to private importers and the restrictions it has placed on use of the private sector portion of the wheat TRQ are clear violations of the commitments China made when it joined the WTO.

USW supported the dispute settlement case (DS 517) brought against China last year regarding its improper administration of TRQs. If China complied with its market access commitment in marketing year 2016/17 it likely would have been the third largest importer in the world instead of the 17th, and in a region where U.S. wheat is extremely competitive. USW is pleased to see the recent actions to establish a panel in this case.

Domestic Subsidies. China notified domestic subsidy levels upon accession to the WTO in 2001, binding its Aggregate Measure of Support (AMS) at zero. China's accession agreement specifies a *de minimis* threshold of 8.5 percent of the value of production for use in China's AMS calculation formula.

China's minimum support prices, input subsidies, and product-specific payments to producers have increased significantly in recent years, resulting in higher domestic support that likely exceeds their AMS commitment. For wheat specifically, initial calculations indicate support from various amber box programs exceeds the 8.5 percent *de minimis* level, resulting in non-compliance with China's domestic support commitments.

The minimum procurement price for wheat had increased annually through 2014. In 2015 & 2016 it was held flat, compared to U.S. farm gate prices which dropped 50 percent between 2014 and 2016 (cf. Table 1). Similar to other countries, China uses a flawed methodology for its price support calculations by only counting commodities actually purchased for public stocks, instead of all production, which clearly benefits from the artificially supported price.

Table 1: Chinese Domestic Average Market Support Prices, 2006-16

| Year | Support Price (RMB/MT) | Support Price (USD/MT) |
|------|------------------------|------------------------|
| 2006 | 1,400 | 175.66 |
| 2007 | 1,400 | 184.21 |
| 2008 | 1,490 | 214.69 |
| 2009 | 1,700 | 249.13 |
| 2010 | 1,760 | 260.35 |
| 2011 | 1,930 | 298.67 |
| 2012 | 2,040 | 323.62 |
| 2013 | 2,240 | 361.87 |
| 2014 | 2,360 | 383.74 |
| 2015 | 2,360 | 381.38 |
| 2016 | 2,360 | 353.64 |
| 2017 | 2,360 | 355.84 |

Under the terms of the accession agreement, China is not allowed to use the exemption under Article 6.2 of the Agreement on Agriculture that allows developing countries to exclude subsidies to resource poor farmers from its AMS calculation. This results in a straightforward domestic support calculation.

USW strongly supports the dispute launched by USTR against China's market price support programs on September 13, 2016. The action is the most significant taken by the U.S. government to date in addressing the imbalances caused by agricultural subsidies that violate WTO commitments.

Value Added Tax. China's value added tax (VAT) administration creates an additional barrier to this growing market. China is obliged under GATT Article III to ensure that discrimination between domestic and imported goods does not occur. Analysis indicates that conformity has not

been achieved for wheat and that imports are assessed an 11 percent VAT upon entry while domestically produced wheat sold by farmers is exempt from the VAT at the first point of sale. In addition, VAT exemptions on STE imports upon entry are also a concern as it provides an 11 percent advantage over private importers.

Chinese officials also routinely state that STEs must operate on commercial terms, but the commercial market is not equal with the private sector when a VAT exemption exists for STEs at the point of entry on imported wheat. USW does not believe that China has satisfied its VAT commitments, resulting in higher priced private sector imports than should be realized.

A 2004 dispute settlement case on VAT in the semi-conductor industry between the United States and China illustrated the discrepancy between imported and domestic products. The two countries achieved a resolution for equal VAT treatment of imported and domestic semi-conductors without going to formal WTO dispute settlement. We encourage greater discussion on the VAT application to ensure fair treatment on imported and domestic wheat.

SPS Measures. China's government agencies are constantly introducing new regulations and updating existing regulations, including those dealing with toxins, pesticide usage and maximum residue limits (MRLs), while aggressively protecting Chinese agricultural production and responding to greater consumer concern about the safety of food available in China.

SPS-Traceability. There is increasing concern about precedent-setting requirements for inspection and certification of origin (traceability) for agricultural products by government authorities in exporting countries. Such a requirement for wheat will reduce trade efficiency and increase costs, as wheat shipments often originate from more than one growing region. Different origins are blended at export facilities to meet buyers' specific quality requirements and to supply the large volumes needed for a single vessel, meaning that if it were even possible there would be high costs for documenting the specific origin of wheat in each shipment.

SPS-TCK. The General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) maintains a list of over 80 quarantine pest items, including *tilletia controversa* Kuhn (TCK) and Karnal bunt (KB). Despite a bilateral agricultural cooperation agreement signed between China and the United States. In 1999, China disregards the terms of the agreement, which allows TCK levels of up to 30,000 spores per 50 grams in a composite sample collected, inspected, and certified by USDA's Federal Grain Inspection Service (FGIS) or its officially designated inspection agent.

The agreement specifically allows discharge of U.S. wheat vessels at any port in China with expeditious delivery to buyers and processors without additional treatment. U.S. wheat that Chinese officials claim contains TCK must discharge at one designated southern port and a cleaning fee is assessed. The cleaning expense is estimated by different contacts at between RMB 60-80/MT (approximately \$9-12/MT). Although market values for U.S. soft white wheat is often competitive with other origins, including Chinese domestic wheat, importers have limited purchases because of potential discharge issues and the additional costs and burden to re-ship wheat from the cleaning facility. Perhaps because China's actions regarding TCK are in violation

of the 1999 agreement, AQSIQ has not made known the rules they apply for TCK, which means that U.S. exporters are not able to minimize the TCK risk for importers.

The U.S. conducted research in conjunction with Chinese scientists that resulted in the agreed upon spore level. Secondary research, in which China voluntarily elected not to participate even at the invitation and encouragement of the U.S., confirms that in environments similar to those of China's agricultural areas, TCK cannot be established.

SPS-Deoxynivalenol (DON). In 2004 the Ministry of Health implemented a requirement limiting the mycotoxin deoxynivalenol (DON) in wheat to 1.0 part per million (ppm). This is one of the strictest specifications in the world and the tightest requirement among Asian markets. China's concern, similar to other countries, is with the level of DON in foodstuffs for human consumption. However, Codex recommends a tolerance of 2.0 ppm in wheat for milling and food consumption. The U.S. does not place a limit on DON in wheat, but the FDA has established an advisory level of 1.0 ppm in finished food products. This FDA policy takes into account that cleaning and milling wheat can reduce the presence of DON by around 50 percent, so 2.0 ppm wheat can usually be milled into processed flour with a DON level below 1.0 ppm. However, China's regulatory requirement forces contract language to show 1.0 ppm maximum. In years where DON is widespread, U.S. exporters can only supply wheat with low DON levels at a much higher price that may not be competitive with other origins or China's domestic wheat.

SPS-Inspection Practices. The practice of preliminary inspection at anchorage and a more thorough sampling and inspection during discharge, along with the requirement to hold commodities in storage until final clearance, delays the processing and delivery of shipments and results in additional costs to importers. Buyers also incur interest charges on delayed shipments, which result from special handling and treatment requirements after discharge. In addition, the methods of sample collection for vessel lots are not statistically or scientifically representative, depending on procedures employed, and enforcement of zero tolerance is the general practice.

Government organizations such as the National Health and Family Planning Commission (formerly Ministry of Health), Ministry of Agriculture, and AQSIQ oversee rules and regulations relating to SPS matters. These agencies routinely issue notifications of new rules, regulations and laws, which set unrealistically short comment periods for both domestic and foreign interests. The draft requirements appear to be generally adapted without consideration of scientifically backed concerns and practical aspects of trade and logistics. Often times the implementation of the rules, regulations and laws are delayed or fall into gray areas as their concrete enforcement is not initially feasible. This period of time creates a lack of transparency and discourages importers who undertake considerable financial risk if officials enforce the rules as they are written.

Impact. Ensuring the agreed upon rules for U.S. producers in China are consistently followed would increase the sales potential of U.S. wheat. If China abides by its domestic support commitments, production would likely decrease or shift to other crops, increasing wheat trade opportunities. This would result in a market signal to farmers in the United States to increase wheat production to meet China's demand.

Full and transparent reallocation of TRQ to the private sector would result in greater fill rates by creating opportunities for private buyers to purchase U.S. wheat at the one-percent in quota duty, potentially increasing sales of high quality U.S. wheat. Full TRQ utilization at the U.S. long-term market share of 36 percent would result in nearly 3.5 MMT of annual exports, well above the 10-year average of roughly 0.9 MMT. This equates to an additional \$600 million in U.S. wheat exports each year at today's prices.

Additionally, a fair application of China's VAT would create a more level playing field for U.S. wheat imports versus Chinese domestic wheat as a 11 percent VAT difference at today's prices is a significant added cost.

USW estimates lost export tonnage to be as much as 500,000 MT of SRW sales in some years because of the DON requirement and perhaps 300,000 MT of SW sales because of TCK, which combined translate to \$100 to \$500 million of lost exports using current prices.

An econometric study conducted by Iowa State University economists using the CARD-FAPRI model estimated that removing product-specific subsidies for wheat in China – without assuming changes in TRQ administration or other issues – would increase U.S. farm gate revenue by \$653 million and increase net exports from the U.S. by 1.5 million tons relative to a baseline scenario.

Resolving these issues would improve China's trade policy compliance to WTO obligations. The result would improve U.S. wheat exports opportunities and likely result in more consistent annual export volumes. This would add economic returns to U.S. producers that could easily exceed \$500 million in additional wheat exports each year.

EUROPEAN UNION

Market Access. The European Union (EU) is collectively the largest producer of wheat in the world. However, it is also a regular importer of U.S. wheat, purchasing 675,000 metric tons in 2016/17. Two classes of U.S. wheat, Hard Red Spring (HRS) and durum, are imported under the EU margin of preference program (MOP). The MOP applies duties to wheat imports valued below an intervention price of €101.31 per metric ton times 1.55, or approximately \$185 per metric ton at the current exchange rate. USDA's Long Term Baseline Projections issued in February 2017 show farm-level wheat prices dropping to around \$147/MT in 2017/18. If correct, that price range could trigger EU import levies on HRS and durum despite durum's price premium that would place it above the threshold.

Durum and HRS wheat are distinct classes of wheat that are not substitutable. Virtually all durum is used to make semolina for the pasta industry, while HRS is used as a blending wheat

for breads, pizza, and flour. The price of durum is usually above the price paid for HRS, as demonstrated in the chart.

Traditionally, the EU calculated durum and HRS duties separately, based on the world market prices of each class. However, in early 2014, the EU unilaterally implemented a policy of calculating durum duties based solely on HRS prices, due in part to what the EU claims is an inability to obtain consistent durum prices.



Clearly, treating durum the same as HRS is not an accurate reflection of its value. And this MOP methodology will result in duties being applied to durum imports when HRS prices fall, likely decreasing the amount of durum purchased by European importers and undermining U.S. durum producers in that market. In 2016/17, the durum market traded at a premium to HRS of 40 percent and over the long term has been priced at about a 25 percent premium.

Biotechnology. USW is particularly concerned with continued resistance by the EU towards imports of genetically modified (GM) food. The EU has a labeling tolerance of 0.9 percent for approved events and a zero-tolerance for unapproved events for food. The lack of a low-level presence tolerance can and has resulted in market disruption for some commodities. The EU does not have a functioning regulatory system for biotechnology approvals, and several submitted biotech events remain unapproved long after being approved and going into production in non-EU countries. Additionally, member states have repeatedly sought to ban cultivation of GM crops for non-scientific reasons, and official EU policy on this, which allowed these bans to take place, has been complicated by a European Court of Justice ruling in September 2017 which ruled that member countries are not allowed to ban cultivation without evidence of risk to human health.

Karnal Bunt. The EU does not accept APHIS certification for Karnal bunt (KB), stating that the APHIS bunted kernel standard for KB does not provide adequate risk protection. Many EU countries, especially the UK and Greece, aggressively sample U.S. wheat to test for KB spores. The delay and uncertainty of spore testing of U.S. wheat is known to encourage buyers to seek wheat from other origins, mainly Canada, even though both the U.S. and Canada primarily ship wheat to the EU from Great Lakes ports. The EU is believed to be the only group of countries that questions the sufficiency of the APHIS bunted kernel method for certifying KB. The KB-affected area has gradually dwindled since it was found in the 1990's, and KB is now only found in a few counties in Arizona. In the nearly 15 years since KB was first found in the U.S., there has been no case where KB has emerged elsewhere in the world as a result of U.S. wheat imports

and there has been no confirmed case of KB contamination of a U.S. wheat shipment. Nevertheless, APHIS and its EU counterpart have exhaustively exchanged scientific views on this issue with no progress having been made in getting the EU to modify its views on the risks posed by KB and the basis for APHIS certification.

Mycotoxins - Deoxynivalenol (DON). The EU has destination sampling and testing requirements for deoxynivalenol (DON) and ochratoxin in imported wheat shipments. Wheat and other grains are normally traded on the basis of certification of quality at loading. FGIS offers official testing services for both these mycotoxins, but the EU has not accepted that the rapid methods approved by FGIS are substantially equivalent to the method they require or that FGIS sampling is sufficiently intensive. Testing at destination, where the shipper can no longer address any problems found, creates uncertainty and risk and may delay delivery, effects which add costs and thus discourage sales. FGIS requested European Commission (EC) recognition of FGIS sampling and testing methods for DON and ochratoxin in U.S. wheat exports. However, this request was denied because the EC viewed FGIS as providing insufficient control over the potential pathways for mycotoxins entering wheat shipments, even though FGIS is merely requesting that its tests be recognized when a wheat shipment is accompanied by an appropriate FGIS certificate.

Hazard-Based Analysis. The EU increasingly approaches SPS regulations through a hazard-based approach—that is identifying potential hazards and banning them, regardless of the actual risk of exposure. Without science-based risk assessments that meet international standards, the EU risks disrupting trade in agricultural products and violating its WTO commitments. There is substantial risk that the EU will choose to prohibit residues of pesticides subject to risk-based analysis in the U.S. that are banned as hazards in the EU. This could have serious repercussions for wheat sales in this export market.

Technical Barriers to Trade – Italian Location Labelling Requirement. In May 2017, the Italian government requested permission from the EC to implement a proposed decree that would require package labels for pasta sold in Italy to disclose the location of cultivation for the durum used to make the pasta. Currently, Italian semolina millers and pasta manufacturers use durum from a wide variety of locations, including the United States, and can blend and mix durum in whatever combination is needed to meet product quality specifications. In July 2017, Italy announced that it would implement this policy without first receiving permission from the EC. This will add significant costs to Italian companies trying to implement the policy, and will likely lead to a reduction of durum imports from the United States.

Impact. HRS prices have not reached a level that would trigger MOP duties since this price threshold policy has been in place. However, artificially increased prices for imports from the U.S. could lead European importers to look to sources within the EU or countries with more favorable market access arrangements. If HRS prices were to drop to the average levels predicted for wheat prices in USDA's most recent Long Term Baseline Projections, import duties would likely be triggered on durum with some frequency, even if actual durum prices are consistently above the trigger level. The application of a duty based on the average HRS price could result in the loss of roughly \$50-100 million in annual durum sales for U.S. wheat producers.

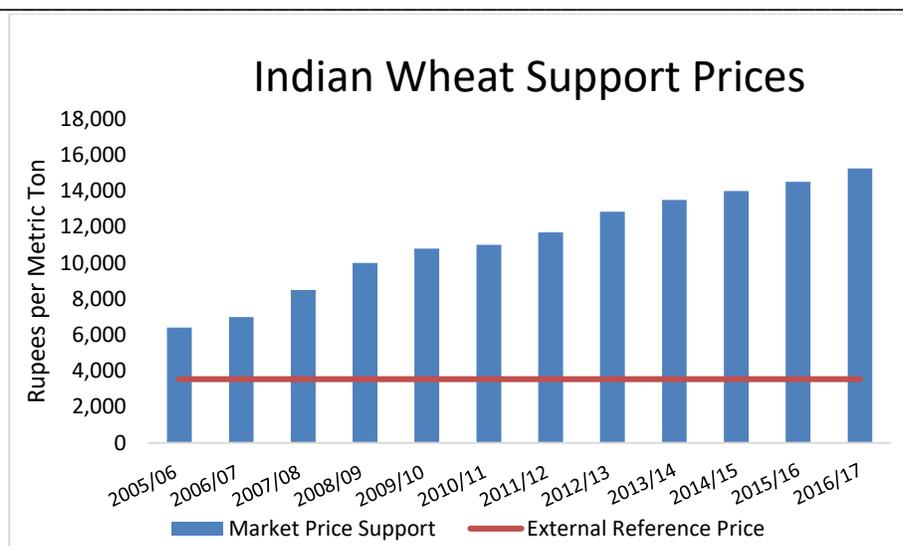
The EU as a group is a large wheat importer, with imports of around 6.0 MMT each year. Based on EU imports as well as disruptions that occur with importing countries that re-export food product to the EU, there is a large economic incentive to overcome SPS and standards barriers with the EU. New hazard-based restrictions, such as on endocrine disruptors, could potentially have an effect of \$100 to \$500 million for wheat alone.

INDIA

Domestic Subsidies. Every WTO member nation is required to report trade distorting domestic subsidies to the WTO, known as the aggregate measure of support (AMS), which is subject to various caps. Countries also have an allowance for *de minimis* spending as a percentage of general and product specific production with developing nations, such as India, capped at 10 percent. In its most recent notification of domestic support programs, covering 2011/12 through 2013/14, India *appeared* to be in compliance with its commitments. However, India used a flawed methodology when it reported that it never exceeded its AMS commitment of zero for any crop, as analysis conducted by DTB Associates demonstrates.

Using past notifications to the WTO and data contained in USDA country reports, DTB's analysis indicates India violates product specific subsidy limits on wheat with a wheat-specific AMS of \$12.4 billion, well above an estimated *de minimis* threshold of \$2.6 billion for 2013/14. Similar analysis indicates that India is exceeding price support commitments for other commodities, including rice, corn, and sugar. It is estimated that India's AMS for these four commodities is between \$36.1 and \$93.4 billion, while India's total AMS limit is zero.

| Marketing Year | Wheat Production | Govt. of India Procurement* | Market Support Price | External Reference Price |
|---|-------------------------|------------------------------------|-----------------------------|---------------------------------|
| (Apr–Mar) | (MMTs) | (MMT) | Rs/MT | Rs/MT |
| 2005/06 | 68.64 | 14.79 (21.6) | 6,400 | 3,540 |
| 2006/07 | 69.35 | 9.23 (13.3) | 7,000 | 3,540 |
| 2007/08 | 75.81 | 11.13 (14.6) | 8,500 | 3,540 |
| 2008/09 | 78.57 | 22.69 (28.9) | 10,000 | 3,540 |
| 2009/10 | 80.68 | 25.38 (31.5) | 10,800 | 3,540 |
| 2010/11 | 80.80 | 22.51 (27.8) | 11,000 | 3,540 |
| 2011/12 | 86.87 | 28.33 (32.6) | 11,700 | 3,540 |
| 2012/13 | 93.90 | 38.15 (40.6) | 12,850 | 3,540 |
| 2013/14 | 92.46 | 25.09 (27.1) | 13,500 | 3,540 |
| 2014/15 | 94.00 | 28.02 (29.8) | 14,000 | 3,540 |
| 2015/16 | 87.00 | 28.09 (32.3) | 14,500 | 3,540 |
| 2016/17 | 90.00 | 22.93 (25.4) | 15,250 | 3,540 |
| *Figure in parenthesis is GOI procurement as percentage of total production | | | | |
| Source: USDA/FAS, India WTO Notifications and Food Corporation of India | | | | |



The chart above shows the increasing market support prices compared to the external reference price India agreed to when it joined the WTO. We have not uncovered a mechanism that allows India's government to not purchase wheat from producers at the minimum support price. As a result, stocks could rise rapidly and result in greater potential for India to release stocks and continue to break its export subsidy commitment on wheat.

If India actually believes that its public stockholding program should be counted in the green box, as it has notified, it would not have derailed the Bali agreement over finding a permanent solution to that program's violation of WTO commitments. The 2012 G-33 proposal to consider food security-related stockpiling to be green box has not been accepted by the other members of the WTO, and India should not be allowed to act as if it has. India should not only be pushed to submit timely notifications in the future, but to submit notifications that reflect reality. As the second largest wheat producer in the world, India's AMS spending needs to be monitored and USTR should address this issue through the WTO.

Furthermore, the market price support program leads to direct distortions in international markets based on the size of the Indian wheat crop and domestic prices in a given year. In recent years, when stocks were deemed too large, India has provided export subsidies to dispose of surplus wheat. In recent years, when the domestic market prices are attracting imports of less expensive wheat to fill gaps between demand and supply, the government has raised tariffs to keep foreign wheat out, first to 10 percent, then 25 percent, down to 0 for the first few months of 2017, and most recently back up to 10 percent. Any wheat export subsidization will be a clear violation of its WTO commitments, as India agreed to a binding export subsidy commitment of zero as part of the Uruguay Round agreement.

Impact. High levels of domestic support provide an incentive to grow wheat when importing a small share of demand would be more economical to the country's consumers and growing crops that would make better use of the comparative advantages of Indian farmers. Compliance on

trade distorting domestic subsidy spending would send better market signals and likely increase economic returns to U.S. producers and provide more trade opportunities.

Furthermore, ensuring compliance on domestic subsidies would eliminate India's periodic need to utilize export subsidies to remove excess wheat from its domestic market, creating a level playing field for U.S. wheat exporters. Competing with non-subsidized Indian wheat would result in higher market prices, creating better returns to all producers. In addition, compliance with trade distorting domestic support levels would shift production to other crops, providing new trade opportunities for wheat exporting countries.

A 2015 econometric study conducted by Iowa State University economists using the CARD-FAPRI model estimated that removing product-specific subsidies for wheat in India would increase U.S. farm gate revenue by \$358 million and increase net exports from the United States by 771,000 tons relative to a baseline scenario.

JAPAN

Market Access. Japan uses a complicated system for the vast majority of its imports that is subject to a government monopoly. Duties on wheat imports are extraordinarily high, amounting to around \$460 per metric ton (roughly double the current market price) for wheat imported by private buyers. The government is the only entity allowed to import duty-free, but imported wheat is subject to a markup of around \$140 per ton before being sold by the government to domestic millers. Funds raised by the markup are used to subsidize domestic wheat production with extraordinary price guarantees, currently around \$875 per ton (over 4 times higher than current U.S. wheat prices). While the U.S. currently has over 50 percent market share, the markup vastly increases domestic wheat product costs, which limits consumption of these products.

Biotechnology. Japan has been vocal in its unwillingness to accept wheat produced through biotechnology. USW urges the U.S. government to continue working with their Japanese counterparts to ensure that regulations and approvals are based on scientific facts.

Japan began testing all U.S. wheat shipments for biotech wheat presence in 2013 after USDA announced the finding of regulated biotech wheat material in the Pacific Northwest. USDA thoroughly investigated the incident and concluded that it was an isolated event and that there is no biotech wheat in commercial channels. USDA reached the same conclusions in an investigation into the finding of regulated biotech material at a Montana research site in 2014 and after a fact-finding mission in 2016 conducted in response to the finding of a different regulated biotech material in the Pacific Northwest. Continued testing increases costs and creates uncertainty for buyers who may conclude that purchases from other origins have less risk. USW believes the USDA investigation conclusion warrants the discontinuation of testing by Japanese authorities.

Mycotoxins - Deoxynivalenol (DON). Japan's Ministry of Health, Labor and Welfare (MHLW) sets a maximum deoxynivalenol (DON) level of 1.1 parts per million (PPM). Since this level

must be met on destination testing, it results in many contracts setting a specification below this level to ensure a result lower than 1.1 ppm. This is one of the tighter DON specifications in the world. Codex recommends a tolerance of 2 ppm in wheat for milling and food consumption. The U.S. does not place a limit on DON in wheat, but the FDA has established an advisory level of 1 ppm in finished food products. This FDA policy takes into account the fact that the cleaning and milling of wheat can reduce the presence of DON by around 50 percent, so 2 ppm wheat can usually be milled into processed flour with a DON level below 1 ppm. In years where DON is widespread, U.S. exporters can only supply wheat with low DON levels at a much higher price.

Impact. Japan is routinely the top buyer of U.S. wheat, purchasing over 3.0 MMT each year, which is worth well over \$500 million. The U.S. wheat industry has worked very closely with the Japanese milling industry to ensure minimal market disruption due to unanticipated biotech events. Assistance in streamlining Japan's MRLs would provide U.S. producers more options in managing the production and storage of their wheat crop each year. In addition, it is critical that Japan utilizes scientific techniques for approving new biotech products and setting tolerances.

KENYA

Flag Smut. Kenya began enforcing long-standing flag smut restrictions on U.S. wheat exports in 2006. This problem was partially resolved by USDA's APHIS, which was able to certify shipments from areas other than the West Coast ports to be free of flag smut. While this allowed trade to resume, there have been good price opportunities for shipments to originate from the West Coast. Growers and shippers in the Pacific Northwest (PNW) states were disappointed that they are excluded from the Kenyan market. Further efforts in 2008, 2009 and 2013 between APHIS and KEPHIS made progress on this issue, and Kenyan authorities gave preliminary approval to concepts that were drafted by APHIS into a protocol that would have effectively removed the restriction. However, KEPHIS subsequently failed to accept the protocol, and the issue remains unresolved.

Kenya's SPS issues also impact U.S. wheat exports from the PNW to Uganda. Uganda does not have a flag smut ban on West Coast exports, but since importers in Uganda generally use Kenyan port facilities, they must abide by the requirement for Kenya.

Impact. The total import market for these two countries averages over 1.6 million metric tons (MMT). There are times when U.S. wheat exports from the PNW are more competitive than those from the Gulf of Mexico and the ability to ship from both ports could increase U.S. wheat market share. U.S. market share in Kenya is low, but even a five-percent rise in market share would be worth over \$20 million to the U.S. wheat industry.

KOREA

Biotechnology. Korea has been vocal in their unwillingness to accept wheat produced through biotechnology. USW urges the U.S. government to continue working with their Korean counterparts to ensure that regulations are based on scientific facts.

Korea began testing all U.S. wheat shipments for biotech wheat presence in 2013 after USDA announced the finding of regulated biotech wheat material in the Pacific Northwest. These testing requirements were eventually reduced after the receipt of the final USDA report as well as Korea's test results indicating no presence of biotech wheat in U.S. export shipments. After a similar finding of biotech wheat in a fallow field in 2016 Korea held shipments and instituted a strict testing protocol. USDA's 2013 investigation and 2016 fact-finding missions concluded that both were isolated events and that there is no biotech wheat in commercial channels. Continued testing delays shipments, which increases costs and creates uncertainty for buyers who may conclude that purchases from other origins have less risk. USW believes the USDA should work closely with Korean authorities and industry to eliminate the testing requirement.

Mycotoxins - Deoxynivalenol (DON). Mycotoxin inspection for wheat began in 2010 with a deoxynivalenol (DON) limit of 1 part per million (ppm), zearalenone - 200 ppb, aflatoxin - 15 ppb and ochratoxin A - 5 ppb. The mycotoxin of most concern to the wheat industry is DON. The Korean limit would be stricter than the 2 ppm level recommended by Codex. The U.S. does not place a limit on DON in wheat, but the FDA has established an advisory level of 1 ppm in finished food products. This FDA policy takes into account the fact that cleaning and milling wheat can reduce the presence of DON by around 50 percent, so 2 ppm wheat can usually be milled into processed flour with a DON level below 1 ppm. In years where DON is widespread, U.S. exporters can only supply wheat with low DON levels at a much higher price, raising concern that Korean importers will look to cheaper origins. Implementation of a 1 ppm maximum by Korea should be justified by scientific measures.

Glyphosate. In 2015, Korea's Ministry of Food and Drug Safety (MFDS) established a maximum residue limit (MRL) of 5 ppm for glyphosate residues in wheat. The comparable U.S. and Codex MRL is 30 ppm. Monsanto submitted data to justify establishing an MRL of 10 ppm, which is the same limit established by the EU. However, MFDS arbitrarily selected the lower value of 5 ppm without providing an explanation or justification for why the limit supported by the submitted data was not acceptable.

Impact. The Korean market has been important to U.S. wheat farmers with 1.3 MMT of exports in 2016/17, valued around \$300 million. Any disruption in U.S. exports due to SPS measures would be lost directly to Australia, Canada, or other origins.

MEXICO

Soil Contamination. Rail shipments of various grains have been delayed upon entry into Mexico because inspectors claim to have found soil contamination in the shipments. The Animal and Plant Health Inspection Service (APHIS) and the U.S. grain industry have been in discussions with their Mexican counterparts to try to resolve this issue. In addition, the Mexican Association of Agricultural Product Suppliers (APPAMEX) has submitted a proposal to the North American Plant Protection Organization (NAPPO) to assess and revise tolerance levels for soil. Mexico has not established clear guidance for how inspections are to be conducted or what amount of soil contamination is not allowed. There appears to be variation in how shipments are

handled depending on the port of entry. The inspectors' practices result in added costs for fumigation treatment and uncertainty for the processors waiting to receive the grain.

Impact. Mexico is one of the largest importers of U.S. wheat, regularly importing around 3.0 MMT, averaging close to \$1 billion annually. USDA estimated \$6 million in annual costs due to soil contamination measures at railroad crossings between the United States and Mexico. Wheat comprised less than 20 percent of soil detections.

MOROCCO

Market Access. The U.S.-Morocco FTA has done little to increase U.S. wheat exports to Morocco. The TRQ amounts allowed are 400,000 MT for common wheat and 360,000 MT for durum. In 2014, only 9,000 MT of the quota was allocated. No preferential FTA sales occurred in 2012, 2013, or 2015. While Morocco tendered three times in 2016 and filled 504,757 MT and tendered in January 2017 and filled 360,000 MT, this was due to a unique confluence of variables; namely, a catastrophic crop failure in Morocco, extremely low prices in the Black Sea that Morocco would want to prevent from hurting domestic production, and a weak crop in Europe. Greater cooperation with Morocco to fully utilize the TRQ created by the FTA, and not just in times of massive domestic production shortfalls, would be a major benefit to U.S. wheat producers.

The FTA does not contain strong assurances to fully utilize the TRQ preference for U.S. wheat, requiring some other mechanism to ensure an adequate TRQ fill rate. This is a weakness in the FTA because Morocco has no incentive to ensure the TRQ is filled. Morocco usually tenders for the entire TRQ amount at the beginning of the year in January or February, when U.S. wheat is not price competitive; last year's exception was due to the poor Moroccan harvest in August 2016. The EU currently holds 60 percent of the Moroccan wheat market share, while the U.S. holds an average of around seven percent of the market. An administrative change that would require retendering of unfilled quota or left the quota open on a first-come first-served basis would address this problem. USW also encourages efforts to explore an institutionalized tender schedule. Instituting a tender schedule could help ONICL and importers plan their annual purchases and likely result in better utilization of the TRQs.

Further complications to the FTA involve the rounding of the allocated TRQ imports to the nearest 5,000 MT, making commercial imports of wheat from the United States (which are normally in minimum 25,000 MT shipments) more complicated for importers. Rounding the TRQ purchases to the closest 25,000 MT under the FTA would help importers avoid quota overruns with potentially very expensive duty implications applied to the over quota quantities.

Additionally, the TRQ allows Morocco to close its market to imports during its own wheat harvest season, from June to August. However, Morocco has begun extending that closure period, resulting in much shorter windows for wheat tenders. Morocco needs to abide by the agreement and limit that period to the agreed upon three-month window.

Impact. There have been limited U.S. wheat sales to Morocco under the FTA agreement. Greater cooperation with Morocco to fully utilize the TRQ created by the FTA, and not just in times of massive domestic production shortfalls, would be a major benefit to U.S. wheat producers.

The failure to uphold the spirit of the U.S.-Moroccan FTA creates a poor trading environment for U.S. wheat. We encourage the U.S. government to address the FTA challenges that limit U.S. wheat export opportunities.

TAIWAN

Maximum Residue Limits. Taiwan's Department of Health (DOH) adopted an MRL of 1.5 ppm for malathion in 2009, well below the U.S. Environmental Protection Agency (EPA) approved tolerance of 8 ppm and the Codex limit of 10 ppm. DOH has justified keeping the low MRL because residues found in wheat imports have not exceeded that level. Samples from U.S. wheat exports rarely if ever have such a high residue of malathion, but higher residues certainly remain a risk given the U.S. limit. It remains troubling that DOH would adopt such a low MRL, one which is at odds with Codex, EPA, and nearly every other importing country.

While DOH has set workable MRL's for the pesticides most likely to be found on wheat, it reportedly still has a large backlog of pesticide reviews to conduct. Changing legislation so that Codex MRLs can be used by default in those cases where Taiwan has not completed a scientific review would bring the country into conformance with WTO requirements and remove the constant threat of trade disruptions resulting from the lack of MRLs for pesticides commonly used by many exporters.

Impact. Taiwan is a loyal customer, purchasing roughly 1.0 million metric tons (MMT) of U.S. wheat each year with an average value of more than \$350 million. The Canadian and Australian industries are actively pursuing this market and any disruption in trade with the U.S. would result in a market share loss to these two major competitors.

TURKEY

Domestic Subsidies. Every WTO member nation is required to report trade distorting domestic subsidies to the WTO, known as the aggregate measure of support (AMS), which is subject to various caps. Countries also have an allowance for *de minimis* spending as a percentage of general and product specific production. Developing nations, such as Turkey are capped at 10 percent. While countries are required to report domestic support spending annually, Turkey has only notified domestic support spending through 2004. This lack of transparency is troubling since Turkey is one of the top 15 wheat producing countries and is routinely the largest exporter of wheat flour. However, while Turkey did submit a notification in 2017 (covering the calendar years 2002-2004), it is notable that there was no mention of wheat supports in the most recent notification. This is odd considering wheat was one of the largest recipients of support in prior years and it clearly has continued to benefit from intervention prices, which by definition should be notified as market price support, even when *de minimis*.

Based on past notifications to the WTO and data contained in USDA country reports, analysis conducted by DTB Associates indicates violations of product specific subsidy limits on wheat. Analysis of Turkey's support programs shows a wheat-specific AMS of \$5.7 billion in 2013, while Turkey's product specific *de minimis* limit was only \$0.63 billion. Turkey's AMS limit is zero, so any spending above *de minimis* levels is prohibited. Support prices since 2001 are listed below (note that Turkey did not announce a support price for 2014 because their projected market prices were above their expected administered price level). The support price is much lower this year in USD terms due to a major decline in the strength of the Turkish Lira, but it still provides an extraordinarily strong price signal to Turkish farmers and keeps Turkey well out of compliance with its WTO commitments. Turkey needs to be transparent and pushed to submit timely and accurate notifications that cover all programs, including product-specific input subsidies that are available to wheat farmers. Its AMS spending needs to be carefully monitored and USTR should address this issue through the WTO.

Minimum Purchase Prices for Anatolian Red Wheat (USD/MT)

| Year | Minimum Purchase Price | External Reference Price |
|------|------------------------|--------------------------|
| 2001 | \$159.26 | \$98.50 |
| 2002 | \$169.01 | \$98.50 |
| 2003 | \$240.18 | \$98.50 |
| 2004 | \$267.13 | \$98.50 |
| 2005 | \$266.34 | \$98.50 |
| 2006 | \$260.81 | \$98.50 |
| 2007 | \$325.47 | \$98.50 |
| 2008 | \$387.20 | \$98.50 |
| 2009 | \$330.07 | \$98.50 |
| 2010 | \$373.51 | \$98.50 |
| 2011 | \$366.40 | \$98.50 |
| 2012 | \$369.14 | \$98.50 |
| 2013 | \$356.34 | \$98.50 |
| 2014 | n/a | \$98.50 |
| 2015 | \$322.70 | \$98.50 |
| 2016 | \$303.17 | \$98.50 |
| 2017 | \$253.59 | \$98.50 |

Source: TMO and OANDA exchange rate calculator

Export Subsidies. A highly protected domestic wheat market and an inward processing system (IPS) encouraging exports combine to provide substantial support to Turkey's wheat flour export industry. Turkey's wheat import tariff is bound at 180 percent and an import tax of 130 percent is currently applied on wheat, which effectively allows the domestic price to be above international

prices. The import tax level varies each year based on domestic production levels, but is routinely set at one of the highest rates among all WTO member countries.

Turkey's protectionist market access policies encourage subsidized flour sales as flour exporters receive a certificate to import duty-free wheat when flour is exported. These flour exports can be priced well below the market, resulting in unfairly priced flour exports that impact wheat exporters from all origins. Turkey's flour export policy, including their IPS, needs to be examined as it results in trade distorting export flows and a loss in U.S. wheat exports in third countries.

The IPS requires Turkish millers to export flour before receiving certificates allowing an equivalent amount of wheat imports duty-free. Turkey has an obligation under the WTO Agreement on Subsidies and Countervailing Measures to maintain a verification system related to the use of the IPS. It requires tracking *inter alia* how much product is imported and exported under the system, and checking that exported wheat is of the same characteristics and kind as wheat exported under the IPS. We have found no evidence of such a verification system. If Turkey does not maintain such a verification system, it is in violation of WTO rules.

Regarding the like characteristics obligation, Turkey only requires that imported and exported wheat fall under the same harmonized tariff schedule (HTS) code. Wheat has many different qualities and associated prices that result in this simplistic policy not meeting the 'same characteristics and kind' requirement. This allows the Turkish Grain Board (TMO) to sell lower quality wheat to millers below their acquisition price to be processed into flour for export, and then issue certificates allowing wheat imports duty free. These price differences provide a huge incentive to import higher quality and more expensive wheat when a miller can avoid a 130 percent tariff on that difference in price.

That incentive is demonstrated by the secondary market that exists for IPS certificates where millers can sell their duty free import rights to traders. The sale of those certificates breaks the import and export chain that should be linked under the IPS and acts as a subsidy to the exporting millers who gain a windfall profit from the revenue sales.

The clearest indication that Turkey is providing export subsidies is the sales of TMO stocks to millers at prices below the acquisition cost. USW has documented sales of wheat to millers contingent on the demonstration of an equivalent amount of flour exported. These sales prices have been at least 15 percent lower than the TMO support prices, even prior to storage costs, meaning that TMO subsidized sales out of its stocks contingent on exports.

Turkey's export subsidy allowance for wheat is 493,812 MT and \$27 million and for wheat flour is 56,178 MT and \$1.4 million (even these will go to zero when developing country export subsidy schedules expire in 2018 due to the WTO Nairobi Agreement). While wheat exports are relatively small and likely below the subsidy allowance, wheat flour exports are almost certainly exceeding Turkey's export subsidy allowance by a substantial margin under the IPS.

A primary concern is that Turkish flour has been routinely arriving in the Southeast Asian countries of Indonesia and the Philippines at prices well below other flour export origins and domestic flour prices. Imports by Indonesia have fallen off somewhat since imposition of trade remedies beginning in 2013. In the Philippines, Turkey still maintains a substantial share of the domestic flour market, but it has slowly declined following imposition of anti-dumping duties in 2014. In 2016, imports were just under 100,000 MT. That compares to the 2012 peak of 163,000 MT, which had increased more than ten-fold since just 2008.

Other affected markets include Angola and Iraq. Angola is the fourth largest export market for Turkish flour, and one with a great deal of potential for U.S. wheat exports. Iraq is the largest market for Turkish flour by far, and Turkish flour has displaced nearly all wheat imports in that country. Certainly Turkey absorbs much Black Sea wheat that would otherwise be competing with U.S. wheat in markets such as these, but our preference is to compete on a level playing field and be able to work with a vibrant domestic milling industry. That is, healthy milling industries are vital to U.S. wheat exports and our relationships in foreign markets. Turkish flour exports undermine U.S. wheat exports more than other types of export subsidies on wheat, because flour export subsidies can put entire milling industries out of business, depriving U.S. farmers of potential customers.

Impact. High levels of domestic support and very high import tariffs provide an incentive to Turkey's producers to grow wheat when importing would be more economical. The main benefit to U.S. wheat producers from correcting these trade issues is less competition from Turkish wheat and flour in other markets. Eliminating unfair competition from cheap Turkish flour exports would increase returns to U.S. wheat producers by \$100 to \$500 million per year.

An econometric study conducted by Iowa State University economists using the CARD-FAPRI model estimated that removing product-specific subsidies for wheat in Turkey would increase U.S. farm gate revenue by \$172 million and increase net exports from the U.S. by 347,000 tons relative to a baseline scenario.

Conclusion

U.S. Wheat Associates appreciates the opportunity to provide comments to increase the competitiveness of U.S. wheat in the world and looks forward to further dialogue on these issues to increase U.S. wheat exports.

About U.S. Wheat Associates

USW's mission is to "develop, maintain, and expand international markets to enhance the profitability of U.S. wheat producers and their customers." USW activities in more than 100 countries are made possible through producer checkoff dollars managed by 18 state wheat commissions and cost-share funding provided by USDA's Foreign Agricultural Service. For more information, visit our website at www.uswheat.org.