



Comments Regarding Section 232 National Security Investigations

DOC-2017-08499

Full Submission

May 31, 2017

The following submission by U.S. Wheat Associates raises concerns about trade restrictions that may be recommended at the conclusion of Section 232 national security investigations. Wheat is often viewed as an import sensitive industry in many countries that are export destinations for U.S. farmers. Before taking action under Section 232, the Department of Commerce should consider the fallout if other countries follow suit and impose restrictions on U.S. wheat or other products as a result of their own national security concerns, whether real or imagined.

GATT Article XXI

U.S. Wheat Associates is extremely concerned about the potential ramifications of import protections based on national security arguments. Under the 1994 General Agreement on Tariffs and Trade (GATT) Article XXI, national security can be a legitimate reason to restrict trade, but this has been rarely cited for very good reason: Article XXI is the Pandora's Box of the GATT. If it is opened for our import sensitive industries, the results could be devastating.

Outside of a few obvious, generally uncontested areas, such as trade in weapons and nuclear material, most trade in goods are not considered national security issues because the implications are enormous. Steel and aluminum are undoubtedly import sensitive products. But the Department of Commerce should think very carefully about the potential consequences of declaring steel and aluminum imports to be national security concerns.

Food Security as National Security

The U.S. wheat industry is highly dependent on exports, with roughly half of U.S. wheat production exported each year on average. Of course, the Department of Commerce decision will have no direct effect on wheat exports from the United States or any other country. However, anytime a trade restriction is put in place, there is the potential for it to be applied to U.S. exports in response, particularly if trade restrictions are imposed outside the World Trade Organization (WTO) dispute settlement system.

It is undoubtedly the case that for many countries – perhaps every country – food security is a critical component of national security. Throughout history, countries that lack sufficient and

affordable food have seen rebellions begin, governments collapse, and armies cross borders. Nor is this problem relegated to the history books; what was once called the Arab Spring traces its proximate causes to food supply disruptions. The effects are still felt across the Middle East, including Iraq and Syria where the Islamic State seized large portions of the wheat production areas in those countries.

Traditionally, when states or empires sought to maintain food security, the goal was to ensure sufficient food production within their own territories or dependent states. From the ancient Roman occupation of the Egyptian bread-basket to the British Corn Laws in the 19th century, and countless other examples before and after, governments have considered domestic food production to be an integral part of national security.

In the past several decades, that perspective has changed across many countries, to the benefit of competitive U.S. farmers who are now able to sell products around the world. This change has come because open markets and declining state intervention have made reliance on imported supplies a viable food security option for most countries. Large volumes of wheat are available from a number of origins, including the United States, mitigating risks of dependence on untrustworthy suppliers. Global supply chains ensure that wheat is available for purchase somewhere in the world at all times.

Undermining Trade Rules a Short-Sighted Mistake

U.S. farmers also rely on international commitments made by countries in the WTO and other trade agreements to keep markets open. However, not every country abides by those rules, and a radical shift by the United States in its respect for trade commitments could give effective ammunition to those who seek to stop or slow food imports under the guise of national security.

In particular, countries like India and China have pursued explicit strategies of import substitution by encouraging domestic production of wheat. China in particular pursues a policy of near self-sufficiency in wheat, and it tends to import only 2-3 percent of its consumption needs. If China were to simply comply with its WTO commitment, it would be one of the world's top 5 importers and still be over 90 percent self-sufficient.

Meanwhile, India has programs aimed at vastly increasing the domestic supply of wheat through subsidies and import protection, and its primary aim at the WTO is to create a "food security" loophole so that trade-distorting programs like this would not be subject to challenge. If the United States acts to substantially broaden the definition of national security through actions on steel, will there be a remaining argument to prevent India and China from demanding similar protection for wheat from a national security standpoint?

Even large wheat importers like Japan, Turkey, and Brazil have sought to ensure varying percentages of wheat consumption comes from domestic production. Countries that are currently highly dependent on wheat imports may decide – perhaps after pressure from their farmers – that the current level of imported wheat is too high and may damage national security.

Every country has the sovereign right to ignore trade commitments, but the rules exist because most countries recognize that deference to those rules creates a more fair trading system. The

strength of that system is not guaranteed, and the United States has been a bulwark in maintaining it, to the benefit of U.S. agriculture and many other industries. Undermining that system through an extraordinarily loose application of national security exceptions would be a short-sighted mistake.

Subsidies Should be Challenged at the WTO or through Countervailing Duties

To be clear, the wheat industry clearly understands the negative consequences of foreign subsidies leading to overproduction. That is why the industry supported the WTO case brought by the United States against China, and has spent a considerable amount of time and resources documenting subsidy challenges around the world.

For the U.S. wheat industry, imports are a relatively small part of overall consumption, and subsidies are not a concern with those imports. That means the only effective trade enforcement tool to counter subsidies is the WTO dispute settlement system.

For import sensitive industries like steel, the WTO may also be an appropriate way to address subsidized production, but to simply keep subsidized imports out of the U.S. market, the most effective tool is the countervailing duty (CVD).

Conclusion

Where the steel industry has genuine concerns on competition due to foreign subsidies, it should seek remedies through CVDs. If the concern is simply competition in a fair market environment, the steel industry must be prepared to compete, and the Department of Commerce should resist the pressure to protect that industry to the detriment of other competitive U.S. industries.