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Comments on Negotiating Objectives for a U.S.- United Kingdom Trade Agreement

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U.S. Wheat Associates (USW) appreciates the opportunity to provide comments on negotiating objectives for a potential trade agreement with the United Kingdom (UK). The UK is an important market for U.S. hard red spring wheat, accounting for approximately a third of the U.S. spring wheat exported eastbound out of the Great Lakes in marketing year (MY) 2017/18. Other U.S. wheat classes face more direct competition from European wheat combined with a €12/MT duty on lower protein wheat.

A U.S.-UK agreement is an opportunity to set higher standards in a trade agreement, particularly on regulatory matters. This will not be easy, as the UK will likely carry over policies from the European Union (EU) until it has time to develop its own regulations. This agreement could propel those regulations in a more science-based direction and resolve some of the wheat-specific issues that have so far eluded solutions at the EU level.

Negotiation Objectives and Priorities

U.S. Wheat Associates' primary objective in this negotiation is to eliminate all tariff barriers on wheat imports, including any tariff rate quotas (TRQs) that are carried over by the UK from current EU policies. Preferably all tariffs would be eliminated upon entry-into-force, but a quick phase-out period would be acceptable provided that higher protein wheat can enter duty-free upon entry-into-force.

Other important areas that should be included are science- and risk-based SPS rules, reasonable and predictable regulation or non-regulation of plant biotechnology (including new plant breeding techniques), and prohibiting hazard-only analysis for pesticide use. Grain-specific issues that should be resolved include recognition by the UK of FGIS certification for mycotoxins such as deoxynivalenol (DON) and APHIS certification on Karnal Bunt.

Tariffs and Tariff Rate Quotas

The EU's WTO schedule includes several wheat TRQs (for durum wheat, quality wheat, and common wheat of medium and low quality). The EU has proposed splitting the TRQs with the

UK based on recent usage, but if implemented by the UK the effect would be to block most wheat imports through inoperable TRQs (i.e. the quantity is too low for practical shipments) or prohibitive tariffs (€95/MT). For example, the UK TRQ for low-medium common wheat from the United States would be set at just 57 metric tons – not enough to fill a single rail car. For durum and high-quality wheat there would be no TRQ under WTO rules – these categories would be subject to the bound tariff rate. That would leave just 123,000 MT without prohibitive tariffs that could be imported only from other origins, or less than 10 percent of the UK’s total imports and around 20 percent of its non-EU imports during MY 2017/18.

Proposed UK Wheat TRQs

Category	Country	Quantity (metric tons)	UK Usage (2012-14)	Proposed UK share (metric tons)
Durum wheat	Worldwide	50,000	0.00%	0
High quality wheat	Worldwide	300,000	0.00%	0
Common wheat (med-low)	USA	572,000	0.01%	57
Common wheat (med-low)	Canada	38,853	96.23%	37,390
Common wheat (med-low)	Others	2,371,600	3.62%	85,935
Common wheat (med-low)	Worldwide	129,577	0.00%	0

Since the UK is dependent on imports for its milling and baking industry, this outcome is likely not realistic. Therefore, some industry sources believe that the tariff regime is likely to mirror the current EU system.

The current EU system (in contrast with its bound commitments) allows duty-free imports of wheat that meets minimum protein requirements (i.e. most U.S. hard red spring and durum wheat). Virtually all recent EU imports of U.S. wheat have occurred under this system.

The only way for lower protein wheat to enter the market is through an EU-wide, U.S.-specific TRQ with an in-quota duty of €12/MT. Because this has rarely been used in recent years, the UK would get none of this TRQ under the joint EU-UK proposal detailed in the table above, but there are opportunities in the UK for lower protein wheat. There would be significantly more opportunities, including during this past year for U.S. soft red winter wheat, if the €12/MT duty were eliminated.

The United States should aim for immediate tariff elimination. It was, after all, the repeal of the Corn Laws (i.e. grain laws) that kicked off the UK’s embrace of free trade in the 19th century. Tariff elimination should again be a goal for the UK as it embarks on another new era in its trade relations. It should certainly be a market access requirement for the United States in these negotiations. Moreover, domestic wheat in the UK is closest in quality to U.S. soft red winter wheat. Due to shipping costs it is unlikely that soft red winter will be competitive in the UK except during times of domestic shortage.

If tariffs are not eliminated upon entry-into-force an acceptable temporary solution would be duty-free treatment for certain qualities of wheat – as under the current EU system – during the transition period to comprehensive, duty-free market access. This should be broader than the EU definition of “high quality” but there should also be a TRQ available for wheat outside of the

negotiated definition. Unlike the EU low to medium quality common wheat TRQ, any initial TRQ should be duty-free. Such a TRQ could expand or the out-of-quota duty be reduced as quickly as possible until all wheat enters duty-free.

Wheat-Specific Technical Issues

There are also technical challenges in the EU that currently make U.S. wheat less competitive and should therefore be resolved so that these do not continue to be problems in the UK. In addition to the general SPS issues listed later, there are several wheat-specific problems.

First, the EU does not accept FGIS testing methodology for deoxynivalenol (DON) at origin, so it requires tests at destination. This creates uncertainty, because at destination the exporter no longer has any ability to address problems, such as through blending out higher levels of DON. There have been incidents where destination sampling methodology was later found to be inadequate, while FGIS is dedicated to ensuring statistically valid tests. Rejections are enormously expensive.

EU regulators also do not accept APHIS certification for Karnal bunt (KB), stating that the APHIS bunted kernel standard for KB does not provide adequate risk protection. 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. 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.

Both issues should be resolved so that they do not continue to be impediments to exports to the UK.

Other Priorities

The EU pesticide regime has the potential to disrupt imports of wheat and other commodities due to the non-science-based hazard approach. Specifically, the unjustified uproar in parts of the EU over the use of glyphosate threatens U.S. wheat exports, both through commercial and policy barriers. Residues can sometimes be found on U.S. wheat, but always well within EU, U.S., and Codex limits. In 2017, the European Commission extended glyphosate registration for just five years (instead of the usual 10-15 years) and individual countries have threatened to ban glyphosate altogether. Beyond glyphosate, a hazard-based approach to pesticide authorization in the UK, if continued after Brexit, could lead to the reduction or removal of Maximum Residue Levels (MRLs) and Import Tolerances (ITs) of long-used products. In contrast, the UK should agree to base its pesticide policies on scientific analysis and robust risk assessments rather than public perceptions that are not backed by even European scientific institutions.

Additionally, the EU has a burdensome and time-consuming process for approval of products developed with biotechnology. The EU risk assessment process by the European Food Safety Authority now takes nearly 4.5 years, far beyond the 19-22 months prescribed by EU law. While there is no biotech wheat event commercialized, open regulatory systems based on science are

vital for trade to flow freely. Even though there is currently no wheat produced using genetically modified organisms (GMOs), U.S. Wheat Associates supports the adoption of strong, science-based biotechnology provisions, such as those included in the U.S.-Mexico-Canada Agreement (USMCA). USMCA also included language on modern biotechnology and the regulatory implications of gene editing technology, which could be very important for wheat farmers. These plant breeding innovations offer necessary tools to combat disease, pest, and climate pressures in wheat breeding, and all efforts should be made to ensure that these technologies do not impede access to the UK market.

Overall, the SPS provisions of the USMCA provide a solid starting point for negotiations with the UK. These include import checks, technical consultations, risk analysis standards, etc. Other chapters, such as Technical Barriers to Trade, Good Regulatory Practices, and Customs and Trade Facilitation, could also be important for wheat farmers.

Finally, a high standard agreement should include strong enforcement mechanisms through access to dispute settlement decisions that cannot be blocked by either party without agreement from both parties.

About U.S. Wheat Associates

USW's mission is to "develop, maintain, and expand international markets to enhance wheat's profitability for U.S. wheat producers and its value for their customers." USW activities in more than 100 countries are made possible through producer checkoff dollars managed by 17 state wheat commissions and cost-share funding provided by USDA's Foreign Agricultural Service. For more information, visit our website at www.uswheat.org.