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Comments Regarding Foreign Trade Barriers to U.S. Exports for 2020 Reporting

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The following is a submission for the 2020 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 2018/19 marketing year (MY), the United States exported 25.5 million metric tons (MMT) of wheat, valued at over \$6 billion. World wheat trade in MY 2018/19 reached 173 MMT, with the United States accounting for 15 percent of global exports.

Binding and Enforceable WTO Commitments

The trade barriers identified often reflect perceived violations of 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. USW does not in any way 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, (even when imposed in full compliance with a country's WTO commitments) can still distort markets and should be removed. 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, while over a decade has passed since the completion of new trade agreement (the U.S.-Korea FTA that was negotiated in 2007 and implemented in 2012). The U.S.-Mexico-Canada Agreement has not been implemented and, while it contains many positive provisions, only includes countries with existing U.S. FTAs. 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.

Domestic Support Violations

Domestic subsidies that exceed WTO commitment levels artificially 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. The first-ever counternotification on India's price supports for wheat and rice in 2018 further demonstrated the U.S. commitment to using all tools available.

SPS Barriers

Sanitary and phytosanitary (SPS) regulatory standards around the world are critically important to protect human and environmental health. However, these standards are sometimes applied in a manner that unjustifiably disrupts trade. 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 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. Again, USW does not object to these requirements as long as they are developed from science-based risk assessments and implemented in the least trade distorting manner available while still achieving appropriate levels of protection.

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 country-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 either implement the WTO TRQ commitment or negotiate an alternative that is acceptable to the United States. Brazil did confirm the TRQ's existence in six WTO notifications since 1996 dated May 2003, March 2009, November 2012, January 2015, October 2016, and February 2018.

USW was pleased to see Brazil recognize the existence of the commitment and pledge to implement it in March of 2019 during a joint meeting of U.S. President Donald Trump and Brazilian President Jair Bolsonaro. However, as of this writing, Brazil has not implemented the TRQ, resulting in an additional year of lost sales by U.S. wheat producers.

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. 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 can establish and manage a zero-duty TRQ system that would make Brazil compliant with its WTO commitment.

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). 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.

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.

Brazil likely exceeded its product specific *de minimis* subsidy limits for wheat in 2007/08, 2008/09, 2010/11, 2013/14, and 2014/15, based on analysis conducted on behalf of U.S. Wheat Associates.

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 in Brazil were inactive for wheat in 2015 but resumed in 2016. In 2017, there were over half a million tons of wheat exported under PEP and PEPRO.

SPS – Pesticide Registration. Consistent enforcement by Brazil of its existing maximum residue limits (MRLs) could seriously disrupt trade. 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, sharply below the U.S. and Codex MRLs of 30 ppm and the lowest set anywhere among wheat importing countries. Some countries that are seen as applying very tight standards for glyphosate at 5 ppm, but that is still 100 times higher than Brazil's. 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's crop suffered and a provisional TRQ was opened.

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 received 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's PEPRO program can also 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.

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. This barrier will be at least partially resolved by the U.S.-Mexico-Canada Agreement (USMCA) once implemented, which requires the removal of Canada's foreign grain grading discrimination. While this change is extremely important, it is only one step towards resolving our border issues with Canada.

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 and disease resistance. 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, 17 percent of HRS in North Dakota, 11 percent of HRS in Minnesota and less than 1 percent in Montana are planted to varieties registered in Canada (CNHR, CWRS, and CPSR).

Likewise, 12 percent of HRW in ND and 7 percent of HRW in MT are planted to varieties registered in Canada. Less than 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 despite Canadian wheat receiving market-based and equitable classification in the United States. USMCA should resolve the foreign grain designation part of this.

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 over \$30 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 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 strongly support the WTO dispute settlement case (DS 517) brought against China regarding its improper administration of TRQs, which the U.S. won in April of 2019. China has agreed to not appeal the decision and in October of 2019 proposed new rules that, if implemented properly, should result in substantially more sales of U.S. Wheat. U.S. Wheat urges close monitoring of the TRQ changes, and actual implementation to ensure compliance with the dispute settlement body ruling.

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 its AMS commitment. China easily exceeds the 8.5 percent *de minimis* level for wheat with its price support alone, resulting in non-compliance with China's domestic support commitments.

USW strongly supported the dispute launched by USTR against China's market price support programs in 2016, which the U.S. won in February of 2019. 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 and should set strong precedent for other advanced developing countries who appear to be exceeding their WTO commitments on domestic support. In October of 2019, China released their minimum price for the 2020 wheat crop and related

regulations that suggest China doesn't intend to reduce subsidies provided to farmers as part of their compliance with the panel report.

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 10 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 10 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 continued 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 disregarded 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 \$800 million in U.S. wheat exports each year at today's prices.

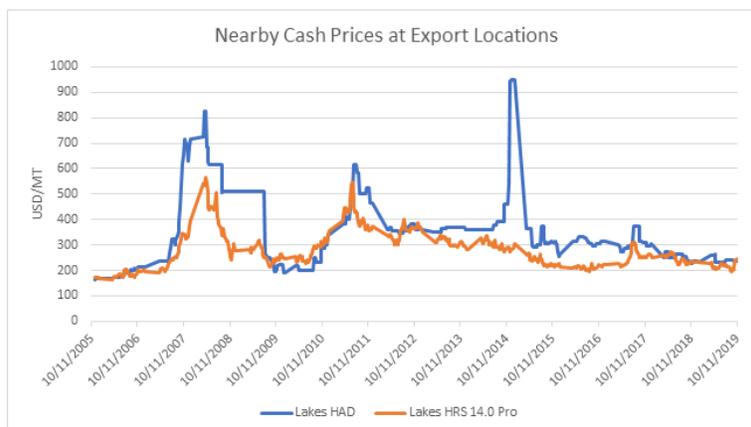
Additionally, a fair application of China's VAT would create a more level playing field for U.S. wheat imports versus Chinese domestic wheat as a 10 percent VAT difference at today's prices is a significant added cost. USW estimates lost export tonnage to be as much as 500,000 MT of SRW sales in some years because of the DON requirement and perhaps 300,000 MT of SW sales because of TCK.

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 736,000 metric tons in 2018/19. 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 \$173.10 per metric ton at the current exchange rate. USDA's Long Term Baseline Projections issued in March 2019 show farm-level wheat prices rising to \$191/MT in 2018/19, a significant increase from the 2017 projection of \$147/MT for that year. However, if prices fluctuate or drop by any substantial amount, that 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. 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. While durum and HRS prices were much closer in 2017/18 and 2018/19 than usual, in the long term, the durum market has been priced at about a 24 percent premium to HRS. The graph above shows that, at times, the premium is even higher and is almost always significant.

Biotechnology and Plant Breeding Innovation. 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.

In 2018, the EU Court of Justice ruled on the regulatory status of plants developed through mutagenesis (which includes many modern plant breeding innovations) and concluded that plant breeding innovations like gene editing, such as CRISPR-Cas9, do fall under the jurisdiction of EU laws regarding traditional biotechnology even when the technologies do not result in foreign DNA being present in the final developed product. This ruling risks placing severe regulatory burdens on a technology that is not inherently riskier than traditional plant breeding. Additionally, it could seriously constrain advanced breeding research in wheat and other underserved crops that rely on public breeders for variety advancement. A patchwork system of

regulations worldwide could effectively halt any further progress in breeding via gene editing, which would be a serious blow for wheat farmers in the U.S. USW strongly urges a commitment to science- and risk-based regulatory decisions with regard to these breeding technologies.

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 Italy, 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.

Cadmium Limits. The EU Commission has been considering a reduction in the limits for cadmium in durum and common wheat. Any reduction below the current 0.2 mg/kg would negatively impact durum exports, especially for Desert Durum. While the Commission has proposed a limit of 0.1mg/kg for common wheat, two member states objected that 0.1mg/kg is problematic for durum wheat. However, another member state then proposed a maximum limit of 0.15mg/kg, which would also pose a problem for US durum. It is unclear whether the Commission is still considering this proposed reduction, but they are expected to make a decision in December 2019.

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 Country of Origin 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.

In February 2018, mandatory Country of Origin Labelling (COOL) for durum wheat in pasta entered into force in Italy. That rule requires COOL for pasta both on where the pasta was manufactured (i.e. where substantial transformation occurred) *and* where the durum used in the pasta was cultivated. In order to identify Italy as a country of origin, pasta had to use at least 50 percent Italian durum. Otherwise it could only identify the durum as EU or non-EU origin. The European Commission approved a regulation on voluntary country of origin labeling of primary ingredients in food that will enter into force in February 2020. While this is supposedly voluntary, Italian pasta producers have said they will continue labelling due to intense pressure from Italian farmer groups. U.S. Wheat Associates estimates that exports of U.S. durum to Italy are projected to drop by as much as 30% over time.

Glyphosate. Italian farmer associations have put pressure on Italian pasta processors to ban the use of imported durum wheat with glyphosate residues. As a result, Italian pasta processors and the supplying durum milling industry are insisting on zero glyphosate residues in imported durum wheat, even though the actual residue levels are much lower than the maximum residue level (MRL) fixed by the European Commission. Although actual glyphosate residues found in imported durum wheat from North America are much lower than the MRL and the product therefore is safe for consumers, farmer unions claim that glyphosate residues, no matter how low they are, pose a food safety risk. This pressure corresponded with the European Commission's decision to reauthorize glyphosate for a shorter period than normal in spite of a lack of scientific justification showing that the current regulations lead to increased risk. The decision-making delay and tepid reauthorization exacerbated the commercial issue of glyphosate residues.

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, 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 if it went into effect.

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. Based on its domestic support notifications, India *appears* 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 a counternotification submitted by the United States demonstrates.

The U.S. counternotification – the first ever of its kind – estimated that India’s market price support policies alone led to violations of AMS commitments on wheat in marketing years 2010/11-2013/14 between 60.1% and 68.5%. In the chart below, U.S. Wheat Associates estimates India’s AMS for wheat through 2019/20:

Marketing Year	Applied Administered Price (Rs./MT)	External Reference Price (Rs./MT)	Eligible Production (Million MT)	Total Market Price Support (Million Rs.) (AAP-ERP)*EP	Value of Production (Million Rs.)	MPS/VOP
2014/15	14000.00	3540.00	95.85	1,002,591	1,290,110	78%
2015/16	14500.00	3540.00	86.53	948,369	1,459,390	65%
2016/17	15250.00	3540.00	87.00	1,018,770	1,655,110	62%
2017/18	16250.00	3540.00	98.51	1,252,062	1,739,840	72%
2018/19	17350.00	3540.00	99.87	1,379,205	1,732,745	80%
2019/20	18400.00	3540.00	102.19	1,518,543	1,880,296	81%

This attempts to use the same methodology as the U.S. counternotification. There are some differences because the Indian sources used by USDA are not up to date through the current year. USDA PSD numbers were used for eligible production. The value of production uses the same source as the counternotification through 2017/18, but in the other years is calculated by multiplying the administered price by total production. Since Indian administered prices were generally well above market prices during this period, the results should be similar. The numbers are conservative in that they do not incorporate the higher state-level bonuses granted in some Indian states. The administered price steadily increased during this period even while global market prices generally decreased.

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 other cases, 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.

Beyond market price supports, India provides extensive support to its producers through input subsidies, primarily for fertilizer, power, and irrigation. In its notifications, India counts 100% of these subsidies in an uncapped “development box” even though uncapped subsidies are only supposed to be available for low-income or resource-poor farmers. India does not seem to make any attempt to target these subsidies accordingly. These input subsidies significantly reduce the cost of planting wheat and – along with the price supports – leads to excess production and import displacement. Other programs benefitting wheat producers include crop insurance and crop loan forgiveness. To the extent that these programs specifically benefit wheat producers, they should count towards India’s *de minimis* level for wheat.

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 about 50 percent market share, the markup vastly increases domestic wheat product costs, which limits consumption of these

products. The mark-up will be progressively reduced for Canadian and Australian wheat under CPTPP, but the recent U.S.-Japan agreement ensures equal access for U.S. wheat as well.

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.

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) and is studying a tighter level at 1.0 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 tightest 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 about 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. In the past year, this issue caused major delays in a shipment of PNW wheat donated to the African Milling School in Kenya.

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 1.9 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 its 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. After biotech wheat was found in Canada, Korea expanded their wheat testing to include all origins of wheat imports. Biotech traits were then detected again in a fallow wheat field in the U.S. in July 2019. Upon the discovery, MFDS suspended all imports, milling, processing and wheat flour distribution to commercial markets until all wheat and wheat flour in silo and milling facilities has been tested. This was a much more disruptive response than other countries such as Japan and Taiwan.

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 or reduce the testing requirement. One potential solution would be to mirror the tests the Japanese government is using which will test for all glyphosate resistant GM traits across crops. This testing method helps manage risk and reduce time delays that come during fallow field findings. Since the implementation of testing in 2013, no positive results have been returned from commercial shipments.

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.

MGK 264 – Missing MRL. Korea does not have an MRL for MGK 264. The last detection of MGK 264 in a wheat shipment to Korea was in 2013. Although MGK 264 is not used in wheat production, it is used in U.S. storage facilities, which continues to create concerns for KOFMIA about future detections. The U.S. MRL for MGK 264 is 5 ppm.

Impact. The Korean market has been important to U.S. wheat farmers with 1.38 MMT of exports in 2018/19, valued over \$320 million. Any disruption in U.S. exports due to SPS measures would be lost directly to Australia, Canada, or other origins.

MEXICO

Soil Contamination. Shipments of various grains have been delayed upon entry into Mexico because inspectors claim to have found soil contamination. 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, adding very expensive demurrage costs. There are a few procedures that are now available, including a certification processes for mills and importers. However, these are still burdensome; to date only one mill has obtained this certification. There are others in the process, but this means time and money for compliance with a phytosanitary measure that appears unjustified.

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. Over the last 10 years, the U.S.-Morocco FTA has done little to increase U.S. wheat exports to Morocco, though that may be changing. The TRQ amounts allowed are 400,000 MT for common wheat and 370,000 MT for durum. 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. The current trend of higher fill rates, if consistent in regular years, would be a major benefit to U.S. wheat exports. Notably, Morocco has agreed to retender for

anything remaining in the TRQ in the second half of the year. In 2017, when retendering for the remaining 40,000 MT of the 2017 common wheat tender in August, this resulted in a 100 percent fill rate. However, these fill rate improvements have not similarly affected the durum TRQ to date.

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 welcome improvement for U.S. wheat producers. In 2019, Morocco did not tender for the US TRQ at the beginning of the year because they had temporarily set duties to 0%. They then raised tariffs at the end of April. While this meant they could tender for the EU TRQ, they chose not to tender for the US TRQ because there wouldn't be enough time for a shipment to arrive prior to the duties being raised to a prohibitive level. For this reason, the only tender of the US TRQ in 2019 took place in September, putting us at a distinct disadvantage to the EU, which received their TRQ tender back in April. Only 30 TMT of US wheat shipped due to an abundance of French wheat in the market this year.

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. 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; recent changes to introduce a second tender at the end of the year will hopefully partially mitigate that. USW also encourages efforts to explore an institutionalized tender schedule or a tender that remains open on a first-come first-served basis. Instituting a tender schedule could help ONICL and importers plan their annual purchases and likely result in better utilization of the TRQs. 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.

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.

Morocco's restitution subsidy system is another major barrier to the implementation of the FTA. The government applies this system when international wheat prices go up in order to maintain the domestic price of bread. For that to happen, the government will suspend import duties and subsidize imported wheat by paying the importer the difference between the actual market price of wheat and the reference price delivered to the mill. This system was used in 2007 and was maintained until international prices fell. During the restitution subsidy system, the FTA's wheat TRQ did not function well, and it was impossible for US wheat to make its way to Morocco. This is a continuing issue that must be monitored.

Impact. There have been limited U.S. wheat sales to Morocco under the FTA agreement, but there have been positive steps to address this. 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. Recently taken steps to improve implementation must remain consistent, and further steps to increase efficiency of the TRQ would be welcome.

If Morocco's wheat restitution subsidy system is implemented, this could seriously damper any progress to export more wheat to the country. Additionally, in the past, Morocco has not allowed U.S. soft red winter (SRW) wheat to enter through the restitution program, despite its suitability and comparable characteristics to French wheat. This would mean that all U.S. wheat is at a significant disadvantage to European competition.

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 by far 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. 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 should be notified as market price support, even when *de minimis*.

The following table was developed using Turkish notifications to the WTO, information contained in USDA country reports, exchange rates from OANDA, and USDA's PSD database. Turkey's AMS limit is zero, so any spending above *de minimis* levels is prohibited. Support prices since 2010 are listed below (note that Turkey did not announce a support price for 2014 because projected market prices were above the 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 that is well above global market prices and keeps Turkey noncompliant 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	Production (thousand metric tons)	Value of Production (USD millions)	AMS Limit – 10% of VOP (USD millions)	Wheat AMS due to MPS (USD millions)
2010	\$373.51	\$98.50	17,000	\$6,350	\$635	\$4,675
2011	\$366.40	\$98.50	18,800	\$6,888	\$689	\$5,037
2012	\$369.14	\$98.50	16,000	\$5,906	\$591	\$4,330
2013	\$356.34	\$98.50	18,750	\$6,681	\$668	\$4,835
2014 ¹	n/a	\$98.50	15,250	n/a	n/a	n/a
2015	\$322.70	\$98.50	19,500	\$6,293	\$629	\$4,372
2016	\$303.17	\$98.50	17,250	\$5,230	\$523	\$3,531
2017	\$253.59	\$98.50	21,000	\$5,325	\$533	\$3,257
2018	\$233.33	\$98.50	19,000	\$4,433	\$443	\$2,562

¹ Turkey did not set a price support in 2014 due to high market prices

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 45 percent is currently applied on wheat, which effectively allows the domestic price to be above international prices. This is a recent and significant decrease from the previous applied rate of 130 but is still 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 the 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 must be able to verify that the wheat imported duty-free is of the same quantity, quality, and characteristics as the domestic wheat used in exported flour and other wheat by-products. 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 a harmonized tariff schedule (HTS) code that does not account for the vast differences. Wheat has many different qualities and characteristics that affect prices, this simplistic policy cannot meet the verification standards described in the SCM Agreement. This allows Turkish millers to use typically lower quality domestic wheat for flour exports and import higher quality wheat for domestic use without paying the prohibitive tariff.

Prior to 2019, Turkey's export subsidy allowance for wheat was 493,812 MT and \$27 million and for wheat flour was 56,178 MT and \$1.4 million. However, these dropped to zero at the end of 2018 due to the WTO Nairobi Agreement. While wheat exports are relatively small, wheat flour exports were almost certainly exceeding Turkey's export subsidy allowance by a substantial margin under the IPS even before that allowance dropped to zero.

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 enters the domestic flour market, but it has slowly declined following imposition of anti-dumping duties in 2014. In 2018, imports were just under 45,000 MT. That compares to the 2012 peak of 163,000 MT, which had increased more than ten-fold since just 2008. Those anti-dumping duties will expire at the end of 2019, and millers in the Philippines expect Turkish flour imports to correspondingly increase again unless the duties are extended.

Other affected markets include Angola, Haiti, and Iraq. Angola is the fourth largest export market for Turkish flour, and one with 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. Even if Turkish flour was kept out of these markets, the domestic incentives for flour exports will remain and the flour will find its way to other countries.

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 other crops would be more economical. The main benefit to U.S. wheat producers from correcting these trade issues is market-based competition in export markets. Eliminating unfair competition from cheap Turkish flour exports would increase returns to U.S. wheat producers by \$100 to \$500 million per year.

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 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.