



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

**Comments Regarding Foreign Trade Barriers to
U.S. Exports for 2023 Reporting
USTR- 2022-0013
28 October 2022**

The following is a submission for the 2023 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 2021/22 marketing year (MY), the United States exported 19.4 million metric tons (MMT) of wheat, valued at over \$5.1 billion. World wheat trade in MY 2021/22 reached 203 MMT, with the United States accounting for 10 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 are particularly 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.

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. This submission provides details on general trade barriers as well as country specific issues that limit exports for U.S. wheat farmers 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.

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. Most recently, the United States and nine other countries requested consultations on India's domestic support compliance under the Bali Decision consultation mechanism. These are important steps but there needs to be a sustained effort – including through formal dispute settlement – to reverse the global trend of WTO inconsistent domestic support growth.

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 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 that are not based on risk assessments.

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. 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 neither transgenic nor gene edited wheat are expected to be in commercial production in the United States in the immediate future, 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, USW appreciates the U.S. government's revised framework around biotechnology to bring regulations up to date to reflect new breeding techniques and other technologies. As new plant breeding innovations become more prevalent, it is important that these technologies are separated from traditional "biotechnology" under their regulatory framework as these technologies can result in new varieties without the presence of foreign DNA. While USDA's SECURE rule makes important progress in establishing a framework for the regulation of gene edited crops in the United States, additional progress is needed to keep U.S. wheat competitive from a regulatory perspective in comparison to other major wheat exporters. Specifically, USDA should ensure that polyploid crops, like wheat, have a regulatory approach on par with diploid crops as opposed to redundant regulatory steps that may currently exist under the SECURE rule. Additionally, EPA and FDA should take expeditious action in completing their portions of the coordinated framework for regulating gene edited crops so that U.S. farmers have science based regulatory certainty for the future of innovative plant breeding.

The following sections provide country-specific examples of foreign trade barriers.

BRAZIL

Merchant Marine Renewal Tax. U.S. wheat imports are subject to a 25 percent merchant marine renewal tax (MMRT) on freight costs to ports from Bahia, Salvador and the 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 appears 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 and Plant Health Inspection Service (APHIS) has repeatedly tried to negotiate with their Brazilian counterparts on the removal of unnecessary 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 multiple years with little sign of progress.

Impact. Increased competitiveness of U.S. wheat through the elimination of the MMRT, as well as the opportunity to ship wheat from the West Coast when prices might be competitive could lead to an additional economic gain of \$10 to \$50 million.

CANADA

Market Access. The U.S.- Mexico- Canada Agreement (USMCA) required Canada to remove its discriminatory foreign grain grading system. This change will allow the U.S. to compete on a more level playing field.

But USMCA did not resolve the overly burdensome nature of Canada's variety registration system (VRS). The inclusion of criteria unrelated to quality or marketing to achieve a class designation (such as agronomic requirements and disease resistance) serves as an unnecessary barrier to the registration of U.S. wheat varieties. While the VRS has been modernized slightly over the past decade, the system still only allows a small amount of U.S. test plot data to be used. This 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. Currently, only 18 percent of wheat acres in North Dakota, and 12 percent in Montana are planted to varieties also registered in Canada (CNHR, CWRS, and CPSR).

Export Subsidies. Canada has a highly regulated rail system that effectively lowers the cost 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 revenues are limited by statute, rather than the market, and lower the transportation costs that exporters must pay for agricultural products. This allows Canadian exporters to be more competitive than U.S. exporters when purchasing wheat from a similar distance inland. Other rail policies also reduce the cost to exporters of Canadian wheat, such as state provision of 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 varietal registration system has been an ongoing concern as Canada transitioned to an open market. 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. If Canada revised its VRS, U.S. wheat could flow more easily across the U.S.- Canadian border.

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.

USW has been encouraged in 2020, 2021, and so far in 2022 by the more extensive use of the STE portion of the TRQ but continues to question compliance with the ongoing dispute settlement case (DS 517) brought against China regarding its improper administration of TRQs, especially China's compliance with information requests regarding TRQ allocation/reallocation as stipulated in their accession agreement. USW has found no evidence that China is allowing

private firms to import wheat through the portion of the TRQ that is reserved for import through STE's, nor does China appear to be in compliance with the transparency provisions of their WTO accession protocol.

Domestic Subsidies. 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. USW supports efforts from USTR to ensure China's compliance with the DSB ruling through fundamental reform of their subsidy program.

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 – Ergot. Ergot is a wheat fungus that above certain levels can become a human health concern. However, it is important that maximum limits for ergot are set according to sound science and risk assessments. China applies an unreasonably stringent ergot level, combined with unclear regulatory wording that has discouraged the U.S. wheat industry from supplying spring wheat to Chinese importers.

The U.S. standard for ergot wheat is 0.05%. China applies a 0.01% limit which is among the strictest limits in the world. Such a strict limit in raw wheat does not serve to further human health and ignores a flour mill's ability to process and manage ergot.

These strict standards and the lack of clarity as to inspection procedures have often caused U.S. traders to be largely unwilling to offer spring wheat to Chinese importers.

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 be subject to cleaning. The cleaning expense is estimated by different contacts at between RMB 60-80/MT (approximately \$9-12/MT). Although market values for U.S. winter wheat classes are 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 that China consistently follows the agreed upon rules for U.S. imports would increase the sales potential of U.S. wheat. If China abides by its domestic support commitments, their domestic wheat 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 may result in more market-driven and consistent 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. Assuming a continuation of a long-term U.S. market share of 36 percent, full utilization of the TRQ would result in nearly 3.5 MMT of annual exports. This would be well above the 5-year average of roughly 1.1MMT and equates to an additional \$960 million in U.S. wheat exports each year at today's prices.

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 export opportunities and likely result in more consistent annual export volumes. This would add economic returns to U.S. producers that could exceed \$1 billion in additional wheat exports each year.

EUROPEAN UNION

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 and Greece, aggressively sample U.S. wheat at arrival 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. 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 three decades 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. 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 applies strict limits for deoxynivalenol (DON). The EU creates additional uncertainty through their use of destination sampling and testing requirements for 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. These effects 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.

Ergot and Ergot Alkaloids. In 2021 the EU reduced their maximum level for ergot and ergot alkaloids. Given that testing for compliance with the maximum level will only be conducted on imported wheat, it represents a potential substantial barrier to wheat exports from both the U.S. and Canada. The EU proceeded with the reduction in the ergot limit and with the creation of a new standard for alkaloids despite no evidence of harm to human health from the existing levels.

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 European Commission 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. Given its likely non-conformity with EU food labeling rules, Italy opted to implement this policy without first receiving permission from the Commission until EU-wide rules on this type of labelling had been implemented. In 2018, the Commission adopted a rule for labelling of products with primary ingredients originating in a place different from the indicated location of manufacture; this took effect on April 1, 2020. However, Italy announced that it would continue its mandatory decree that the location of both wheat cultivation and pasta manufacturing be included on the label. This adds significant costs to Italian companies trying to implement the policy and could lead to a reduction of durum imports, including from the United States.

The European Court of Justice recently ruled that mandatory national labelling schemes, such as Italy's, need to show that there is a proven link between the qualities of certain foods and the origin of the ingredients. If that test is met, the member state needs to show that consumers attach significant value to that information. Italian pasta's reputation for quality is not dependent on the durum being grown in Italy, but on the pasta manufacturers abilities to blend and mix durum in whatever combinations are needed to meet product quality specifications. Durum grown in the United States is often superior to Italian durum for making high quality Italian pasta.

Impact. 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 could potentially have an effect of \$100 to \$500 million for wheat alone assuming a near total loss of access to the EU market.

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. India routinely uses a flawed methodology when reporting its wheat domestic support, which was refuted by the U.S. in a counternotification submitted by the United States. In the table below, USW estimates India's AMS for wheat through 2021/22:

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	14500	3540	95.85	1,050,516	1,290,110	81%
2015/16	15250	3540	86.53	1,013,266	1,459,390	69%
2016/17	16250	3540	87.0	1,105,770	1,655,110	67%
2017/18	17350	3540	98.51	1,360,423	1,739,840	78%
2018/19	18400	3540	99.87	1,484,068	1,837,608	81%
2019/20	19250	3540	103.6	1,627,556	1,994,300	82%
2020/21	19750	3540	107.9	1,749,059	2,131,025	82%
2021/22	20150	3540	109.5	1,818,795	2,206,425	82%

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 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.

For the 2022/23 marketing year, USDA-FAS forecasts Indian wheat ending stocks at over 11.5 million metric tons (MMT). In the 2020/2021 marketing year, India began exporting its low-priced subsidized wheat into the global market to alleviate these excess stocks, which are driven by the country's domestic support programs. For the current year USDA forecast exports at 6.5 MMT.

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. These 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 greater 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 study completed by economists from Texas A&M University estimates that removing domestic support would result in an increase in annual value of production by \$516 million for wheat producers by 2028/29.

SOUTH AFRICA

Market Access. The U.S. faces a tariff disadvantage with the EU in the South African market. The EU is the leading supplier of wheat to South Africa, followed by Russia. One of the EU’s advantages in this market is a TRQ which began in 2017 at 248,000 MT. The UK secured a 30,000 MT TRQ with South Africa under the SACUM-UK Economic Partnership Agreement, which went into effect when it exited the European customs union.

Impact. The U.S. is the fifth largest supplier of the South African market, around 5% market share. A U.S. specific TRQ with the elimination of tariffs could allow the U.S. to compete on a more level playing field in this market with the EU and UK.

THAILAND

Maximum Residue Limits. In 2020 and 2021 Thailand considered and implemented domestic bans on several commonly used plant protection products. Part of the ban was a reduction in

MRL's to effective zero tolerance levels. Thailand conducted no risk assessments in making the decision to ban the products and has made no attempt to provide a trade enabling import tolerance while canceling the products for domestic use.

Impact. Thailand has been a rapidly growing milling wheat market but the lack of a predictable regulatory system for plant protection product residues has hampered wheat supplier options from multiple exporting countries.

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 2016. 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 has resumed submitting notifications since 2017 (it is currently caught up through 2016) it is notable that there has been no mention of wheat price supports (*de minimis* premium payments have been notified). 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 if *de minimis*.

The following table was developed using Turkish notifications to the WTO, information contained in USDA country reports, exchange rates from OANDA.com, 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 up slightly from last year and 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.

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	\$ 6,350.00	\$ 635.00	\$ 4,675.00
2011	\$ 366.40	\$ 98.50	18,800	\$ 6,888.00	\$ 689.00	\$ 5,037.00
2012	\$ 369.14	\$ 98.50	16,000	\$ 5,906.00	\$ 591.00	\$ 4,330.00
2013	\$ 356.35	\$ 98.50	18,750	\$ 6,682.00	\$ 668.00	\$ 4,835.00
2014	n/a	\$ 98.50	15,250	n/a	n/a	n/a
2015	\$ 322.70	\$ 98.50	19,500	\$ 6,293.00	\$ 629.00	\$ 4,372.00
2016	\$ 303.17	\$ 98.50	17,250	\$ 5,230.00	\$ 523.00	\$ 3,531.00
2017	\$ 268.00	\$ 98.50	21,000	\$ 5,628.00	\$ 563.00	\$ 3,560.00
2018	\$ 233.33	\$ 98.50	19,000	\$ 4,433.00	\$ 443.00	\$ 2,562.00
2019	\$ 228.00	\$ 98.50	17,500	\$ 3,990.00	\$ 399.00	\$ 2,266.00
2020	\$ 235.00	\$ 98.50	18,250	\$ 4,289.00	\$ 429.00	\$ 2,491.00
2021	\$ 268.00	\$ 98.50	16,000	\$ 4,288.00	\$ 429.00	\$ 2,712.00
2022	\$ 391.00	\$ 98.50	17,250	\$ 6,745.00	\$ 675.00	\$ 5,046.00

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 a duty of 45 percent is routinely applied on wheat, with some exceptions. In September 2021 Turkey announced a temporary waiver of the 45% tariff to reduce domestic wheat costs for millers. As of October 2022, the duty-free access is still in effect, and presumably rates will return to the routinely applied 45% tariff unless duty-free or lower duty treatment is extended. When applied, this tariff effectively allows the domestic price to be above international prices.

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 harmonized tariff schedule (HTS) code that does not account for the vast differences within the HTS code. 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.

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 Decision on Export Competition. 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.

In addition to the IPS, a recent study on Turkey's wheat export industry discovered that freight subsidies are provided as a cash refund to exporters for transportation of wheat flour. This freight support is determined by MoT annually and made up largely of agricultural products according to the report. Documentation on these subsidies is limited therefore it is challenging to determine if these subsidies are in violation of WTO rules. The Nairobi Decision allows export subsidies up to a certain level for developing countries, although Turkey would be required to submit documentation of these subsidies under that decision, which they have not.

The concern with Turkish flour came to a head with the accelerating arrival of Turkish flour imports 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 the imposition of trade remedies beginning in 2013. In the Philippines, Turkish flour still enters the market, but it has declined following imposition of anti-dumping duties in 2014 and an extension granted in 2020. In 2021, Philippine imports were just over 6,000 MT. That compares to the 2012 peak of 162,000 MT, which reflected a more than ten-fold increase since just 2008.

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, Turkey still provides incentives for flour exports so the flour will find its way to other countries.

Certainly, Turkey imports large amounts of 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.

UNITED KINGDOM

Market Access. The U.K. is primarily a Hard Red Spring (HRS) market, but a U.S.-U.K. FTA would provide opportunities for additional U.S. wheat classes to be exported to the U.K. by eliminating the U.K.'s duties on lower-protein wheat. After Brexit, the U.K. adapted the EU's Margin of Preference policy that imposes high duties on imports of lower protein wheat (i.e. below 14.6 percent on a 13.5 percent moisture basis) and duty-free treatment for higher protein wheat. The current duty on lower protein wheat is 79 GBP/MT.

Impact. Historically, the U.S. is the second largest supplier of wheat to the U.K., about 100,000 MT or \$25 million per year, this is approximately 20% market share. A U.S.-U.K. trade agreement would provide an opportunity for more scientifically based SPS rules, permanent duty elimination, and an increased opportunity to export wheat to the U.K. market.

VIETNAM

SPS Measures. There are several SPS issues that face wheat exports to Vietnam. Vietnam continues to consider bans on common agricultural pesticides without conducting appropriate risk assessments as well as restrictions on Canadian thistle seeds, common grain insects and ergot. Trade is currently occurring through aggressive cleaning of U.S. wheat supplies, but U.S. exporters continue to face the threat of potential re-export in the event of Canadian thistle seed detections at destination.

Impact. Currently the U.S. supplies about 10% of the Vietnam market. That market share could be readily grown upon the resolution of SPS barriers that would provide a more certain atmosphere for trade.

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.