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Comments Regarding Foreign Trade Barriers to U.S. Exports for 2021 Reporting
USTR- 2020-0034
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The following is a submission for the 2021 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 2019/20 marketing year (MY), the United States exported 26.3 million metric tons (MMT) of wheat, valued at over $6 billion. World wheat trade in MY 2019/20 reached 192 MMT, with the United States accounting for 14 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.

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, USW appreciates the U.S. government's revised rules around biotechnology to bring regulations up to date to reflect new breeding techniques and other technologies. As new plant breeding innovations begin to be used more often, it is important that these technologies are separate from traditional "biotechnology" under regulations as these new technologies can result in new varieties without the presence of foreign DNA.

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

AUSTRALIA

Market Access. Although Australia is not a traditional importer of wheat, in the 2019/20 marketing year Australia did import a significant quantity of wheat. Those imports tend to occur in years when the country suffers from an extreme drought, as in marketing years 2018/19 and 2019/20. During this time of drought Australia approved Canadian wheat for import to meet domestic demands for high protein wheat, but not wheat from the US

Impact. Australia claims strict biosecurity protocols were followed when approving Canadian wheat for import. These strict protocols did not allow U.S. wheat to be imported during this time. If U.S. wheat was approved by Australia for import it would level the playing field among the leading wheat exporters and show a strict adherence to science-based decision making.

In years that Australia imports wheat, allowing the U.S. access similar to Canada could lead to an additional economic gain of $5 to $25 million.

BRAZIL

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.

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 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. Increased competitiveness to Brazil from eliminating the MMRT, as well as the opportunity to ship from the West Coast wheat when prices might be competitive to Brazil, those shipments could lead to an additional economic gain of $5 to $25 million.

CANADA

Market Access. U.S.- Mexico- Canada Agreement (USMCA) required Canada to remove its foreign grain grading discrimination 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 US wheat varieties being registered. 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, 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, 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 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 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 policies also reduce the costs to exporters of Canadian rail movements, 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 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 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.

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.

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 – 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 limited the US wheat industry from supplying spring wheat to Chinese importers.

The US standard for ergoty wheat is 0.05%. China applies a 0.01% which is among the strictest limits in the world. Such a limit in raw wheat doesn't serve to further human health and ignores a flour mill's ability to process and manage ergot. Further confirming US trade fears of how China will treat ergot

detections, in the FAS GAIN Report for China dated April 14, 2017 the upper limit is listed as 0.01 but says "Should not be detected" at the top of the chart heading.

These strict standards and the lack of clarity as to inspection procedures have caused the trade to be largely unwilling to quote prices on spring wheat to Chinese importers.

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 disregards the terms of the agreement, which allows TCK levels of up to 30,000 spores per 50 grams in a composite sample collected, inspected, and certified by USDA's Federal Grain Inspection Service (FGIS) or its officially designated inspection agent.

The agreement specifically allows discharge of U.S. wheat vessels at any port in China with expeditious delivery to buyers and processors without additional treatment. U.S. wheat that Chinese officials claim contains TCK must discharge at one designated southern port and a cleaning fee is assessed. The cleaning expense is estimated by different contacts at between RMB 60-80/MT (approximately $9-12/MT). Although market values for U.S. soft white wheat is often competitive with other origins, including Chinese domestic wheat, importers have limited purchases because of potential discharge issues and the additional costs and burden to re-ship wheat from the cleaning facility. Perhaps because China's actions regarding TCK are in violation of the 1999 agreement, AQSIQ has not made known the rules they apply for TCK, which means that U.S. exporters are not able to minimize the TCK risk for importers.

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

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

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

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

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

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

Additionally, a fair application of China’s VAT would create a more level playing field for U.S. wheat imports versus Chinese domestic wheat as a 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

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.

Mycotoxins - Deoxynivalenol (DON). The EU applies strict limits for deoxynivalenol (DON) and is currently considering proposals to further depart from international standards in lowering them even more. 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, 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 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 than 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, 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. India routinely uses a flawed methodology when it reporting its wheat domestic support, which was well refuted by the U.S. in a counternotification submitted by the United States.

In the table below, U.S. Wheat Associates estimates India's AMS for wheat through 2020/21:

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	3540	95.85	1,002,591	1,290,110	78%
2015/16	14500	3540	86.53	948,369	1,459,390	65%
2016/17	15250	3540	87.0	1,018,770	1,655,110	62%
2017/18	16250	3540	98.51	1,252,062	1,739,840	72%
2018/19	17350	3540	99.87	1,379,205	1,732,745	80%
2019/20	18400	3540	103.6	1,539,496	1,906,240	81%
2020/21	19250	3540	107.6	1,690,396	2,071,300	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 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.

For the 2020/21 marketing year, USDA-FAS forecasts Indian wheat stocks over 31 million metric tons (MMT). Based on historical treads India could begin exporting low-priced subsidized wheat into the global market to alleviate these excess stocks, which are driven by the country's domestic support programs.

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 estimate that removing domestic support would result in an increase in annual value of production by $516 million for wheat producers by 2028/29.

JAPAN

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.

KENYA

Flag Smut. Kenya began enforcing long-standing flag smut restrictions on U.S. wheat exports in 2006. This year the issue has been resolved by the U.S.-Kenya Trade and Investment Working Group which adopted a phytosanitary protocol which would allow U.S. wheat from the Pacific Northwest (PNW) access to the Kenyan market for the first time in over a decade. Initially 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 were good price opportunities for shipments to originate from the West Coast. Growers and shippers in the PNW states were excluded from the Kenyan market at the time. This issue also impacted 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. USW appreciates to efforts to resolve this long-standing issue.

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.

A free trade agreement with Kenya could provide more favorable tariffs. Kenya maintains a 10 percent tariffs on wheat imports from registered millers of all origins, while all others are subject to a 35% tariff on wheat imports. Kenya typically remains a price buyer where most of its imports are from the Black Sea region and Europe, due to their price competitiveness and proximity. If the U.S. were allowed tariff advantages over its competitors in the Kenyan market from an FTA this would allow Kenyan flour millers access to high quality wheat from the U.S. at a more competitive price.

KOREA

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.

Residues. Korea'a Ministry of Food and Drug Safety (MFDS) has established a great many new maximum residue limits (MRL's) for crop protection products over the last decade. Most of which were set in line with international standards and used sound risk assessments in their development. However, in some instances MRL's have been set dramatically lower than CODEX and with little additional reasoning. Unreasonably low MRL's can easily disrupt trade and result in additional testing costs for exporters.

Impact. The Korean market has been important to U.S. wheat farmers with 1.32 MMT of exports in 2019/20, 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 fumigation at port of entry (24 hours of waiting time) and including a certification processes for certain mills and importers. However, these are still burdensome; to date only two mills have 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 3.2 MMT, averaging close to $1 billion annually. USDA previously estimated there were $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 decade, the U.S.-Morocco FTA has done little to increase U.S.

wheat exports to Morocco. The TRQ amounts allowed are 400,000 MT for common wheat and 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. 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.

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 over 50 percent of the Moroccan wheat market share, while the U.S. holds an average of around five percent of the market.

In marketing year 2019/20, Morocco only imported 32 TMT of U.S. wheat. While EU has been the leading supplier, Canadian wheat continues to be the second largest supplier, then followed by the Black Sea Region (Russia and Ukraine).

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.

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 TMT. The UK has already secured a 30 TMT TRQ with South Africa once it exits the European customs union.

Impact. The U.S. is the fifth largest supplier of the South African market, around 6% 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 with Europe in this market.

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.

Year	Minimum Purchase Price	External Reference Price	Production (thousand metric tons)	Value of Production (USD millions)	AMS Limit-10% of VOP (USD million)	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	$ 356.35	$ 98.50	18,750	$ 6,682	$ 668	4,835
2014	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
2019	$ 228.00	$ 98.50	17,500	$ 3,990	$ 399	2,266

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 routinely applied on wheat, with some exceptions. In mid-October 2020 Turkey announced a temporary waiver of the 45% tariff to reduce domestic wheat costs for millers. These rates are to be in effect until the end of 2020, and rates will return to the routinely applied 45% tariff. This tariff 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 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.

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 and an extension granted in 2020. In 2019, imports were just under 18,000 MT. That compares to the 2012 peak of 162,000 MT, which had increased more than ten-fold 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, the domestic incentives for flour exports will remain and 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 with Brexit there are opportunities for additional U.S. wheat classes to be exported to the U.K. since they will no longer be covered under the EU's quota for lower-protein wheat, or the Margin of Preference program for higher protein wheat. The U.S. and Canada have specific EU import quotas that are subject to a duty of €12 per metric ton, except for a small, 100 TMT duty free TRQ for lower protein Canadian wheat, which was agreed to in the EU/Canada FTA.

Impact. The results of the U.K.'s departure from the EU remain uncertain as they negotiate trade agreements with the EU and the U.S. For a country that has been under the EU's control for many years the U.K. government will begin to develop their own policies. The U.S. is the second largest supplier of wheat to the U.K., about 100 TMT or $25 million per year, this is approximately 20% market share. USW hopes with a U.S.-U.K trade agreement there will be more favorable SPS terms and increased opportunity to export wheat to the U.K. market.

VIETNAM

Market Access. Although the MFN tariff rate for wheat (including from the US) to Vietnam decreased from 5% to 3% this year, U.S. wheat remains at a disadvantage in this market to several competitors, such as Russia under the Eurasian Economic Union Agreement (EAEU), and Australia and Canada under the CPTPP where wheat enters Vietnam duty free.

There are also 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. Trade is currently occurring through aggressive cleaning of US wheat supplies, but US exporters continue to face the threat of potential re-export for in the event of CT seed detections at destination.

Impact. Currently the U.S. supplies about 10% of the Vietnam market. If the tariffs on U.S. wheat were removed, the U.S. could increase exports and complete on a more level playing field with Russia, Australia and Canada which are benefiting from free trade agreements in this market.

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.