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Comments on Proposed Section 301 Action on China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance

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U.S. Wheat Associates (USW) and the National Association of Wheat Growers (NAWG) appreciate the opportunity to comment on proposed actions targeting China's maritime, logistics, and shipbuilding sectors. The U.S. wheat industry is heavily dependent on oceangoing vessels, especially dry bulk carriers, to access global markets, and exports are vital to this sector. About half of the U.S. wheat crop is exported each year, including around 90 percent of wheat grown in the Pacific Northwest. Global wheat trade is a highly price competitive industry; U.S. wheat is often marketed at a quality premium, but it still needs to be offered at a competitive price relative to other origins like Canada, Australia, the European Union, Russia, Ukraine, and Argentina. While revitalizing the U.S. shipbuilding industry is a laudable goal that we support, we are concerned that the proposed actions could have profoundly negative effects on U.S. wheat exports.

USW and NAWG appreciate the concerns raised by the petitioners on the effects of China's subsidies on its shipbuilding industry, which has led to notable market distortions and meaningfully harmed the U.S. shipbuilding industry. USW and NAWG are acutely aware of the harmful effects of massive distortions caused by China's non-market actions. The wheat sector has faced similar challenges with China's price supports and other subsidies for wheat and other grains, which culminated in a dispute won by the United States at the World Trade Organization (WTO) in 2019. Dealing with non-market distortions requires an effective strategy, but USTR's proposed actions are only a partial solution to the underlying problem. Most concerningly, the short to medium-term impacts will fall heavily on U.S. agricultural exports and American farmers.

Port Fees

The proposed port entrance fees pose a severe threat to the U.S. wheat sector, risking substantial export losses as buyers shift to foreign competitors. For example, the proposed $1,000,000 port fee for a handymax vessel carrying 40,000 metric tons (MT) of wheat would equal an extra charge of $25 per MT. This is roughly equivalent to an 8-12% export tax at current prices. The fee for non-Chinese operators with 0-24.9% Chinese-built vessels (i.e., the lowest category proposed) would still be a 4-6% export tax. However, China is one of the largest builders of dry bulk carriers, which move most of the

world's ocean-shipped grain, and Chinese vessels make up more than half of U.S. port calls in this category.[1]

This would give a significant price advantage to our competitors and would likely incentivize shipping companies to avoid the United States as much as possible, perhaps even splitting into fleets that can serve the United States (more expensive) and fleets that can serve the rest of the world. Shipping grain is already a low-margin business, and the result will almost certainly be lost orders for U.S. wheat exports and, consequently, lower income for U.S. farmers.

The impacts of these port fees will be directly borne by U.S. exporters and their customers. Below are two examples of clauses which have been added to bulk vessel charter contracts since this proposal was published for comment. The first implements a cancelation of the charter upon the imposition of port fees – introducing incredible uncertainty for customers who are counting on cargos arriving on time as part of their domestic food supply chain. The second has made a clear reassignment of the port fee.

"If at any time prior to loading it becomes reasonably likely that a charge will be levied on the vessel pursuant to US government measures which came into effect after the date of this Charter Party against operators/owners/purchasers of Chinese-built vessels in consequence of a US port call then unless Charters at their option agree to pay such charges on an open book basis, either party shall have the right to terminate this Charter Party."

"Notwithstanding, any/all other tax clause referenced in this charter party , the Charterers shall pay any and all taxes and/or duties and/or tariffs and/or tolls and/or dues and/or levies and or assessments on cargo and/or freight and/or demurrage and/or hire and/or profits and/or the vessel, or any other charge imposed by any tax or equivalent authority by virtue of the performance of specific voyages, whether imposed at the port of loading or discharge, or otherwise, including but not limited to any service fees and/or port charges for entrance into a US port (a " Liability"). Any restrictions on service, either at the port of loading or discharge, imposed because of the vessel's place of construction is for Charterers' time and expense. The Charterer must settle any amounts due, including any interest or penalty charge, directly with the relevant body, department, or authority on or before the due date for payment in each case. In the event that the Charterers do not do so and the Owner subsequently makes a payment in respect of any Liability the Charterer shall indemnify the Owner for any and all such amounts paid, including any interest or penalty charges imposed thereon, together with the Owner's reasonable costs (including but not limited to legal costs) of investigating, taking advice in relation to, assessing, contesting and/or making such payments. In such event, notwithstanding any other term of this Charterparty, and notwithstanding the provisions of any applicable law or statute, the agreed limitation period for the commencement of the Owner's said indemnity claims against the Charterer, and/or any claim for damages arising out of the Charterer's breach, shall run for 6 years starting from the date of the Owner's actual payment. The provisions of this clause shall apply whether the Liability is assessed during or after the currency of this Charter Party and the indemnity given herein shall survive the termination/cancellation of the charter for any reason whatsoever."

[1] Estimates by Trade Partnership Worldwide LLC derived from UNCTAD and OECD data.

U.S.-Flag Requirements
Another proposed action is a mandate to transport U.S. goods on U.S.-built vessels. Based on decades of experience with similar mandates, specifically the U.S. Cargo Preference Act and related statutes, we have significant concerns with this.

The current statutory framework is instructive because even with existing mandates for using U.S. flagged vessels to transport food aid, there are still only a few dry bulk carriers available to ship large quantities of wheat. In 2016, there were about ten times as many U.S. flagged container ships, but 1) containers are a much less efficient way to ship wheat[2] and 2) the DWT of U.S. container ships is still less than half that of, for example, the United Kingdom's container fleet,[3] itself a relatively small container fleet. Of the remaining *four* U.S. flagged dry bulk carriers, three were built in Japan and one in China (this excludes dry bulk "lakers" that are generally confined to the Great Lakes).

U.S. flag mandates are costly: a 2015 study by the Government Accountability Office (GAO) found that cargo preference requirements for shipping food aid increased costs by about 23 percent, or $107 million, from 2011 to 2014. Cost increases at those levels would either mean losing business to our competitors or driving down the price of wheat paid to farmers so that exporters could remain competitive. While U.S. flag requirements may offer a variety of reasonable co-benefits in a government operated food aid program, the same requirements would be logistically infeasible for commercial wheat exports.

Steep Declines in Wheat Exports and Production
A recent study by Trade Partnership Worldwide LLC looked at several of these proposals and modeled the impacts across a range of import and export categories. It found that these proposals would have particularly negative effects on wheat exports, with roughly 10 to 40 percent declines for each proposal modeled and an over 60 percent decline if they are all imposed. These proposals would additionally result in an overall decline in wheat production in the United States. These numbers are practically unthinkable for wheat farmers that are already facing tight margins and unfair trading practices around the world. Additionally, the authors believe that these estimates are conservative and could be greater. Regardless, the damage to U.S. wheat exports would be severe and permanently harm this industry.

Conclusion
This proposal from USTR would fall heavily on American farmers at a time when they are already facing tight margins and an unfair global trading landscape. Under this proposal, U.S. wheat farmers will lose sales quickly. In fact, that is already happening as this proposal already impacts current purchasing behavior and forward planning for wheat and freight costs. Markets that have been delicately built over decades to become consistent U.S. customers may be quickly lost to other competing exporters. Agricultural commodity trade thrives on consistency and predictability, and without that element, it will be extremely challenging to bring international customers back to the U.S. wheat market.

At the very least, any proposal should start from the premise that U.S. agricultural exports, especially on dry bulk carriers, have no alternative today. Chinese-built vessels are a large part of the global

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[2] While containers are less efficient, U.S. wheat is still sometimes shipped on ocean container ships for countries where smaller mills do not have the capacity to allow bulk shipments.
[3] These numbers are from the MARAD Merchant Fleets of the World Report for 2016. Based on more recent data, there has been a net loss of two U.S. flagged dry bulk vessels since this report.

shipping fleet, and Chinese shipyards represent a significant portion of global capacity. That cannot be reversed overnight or even within the next seven years. While the issue should have been addressed earlier, U.S. grain exports are currently forced to depend on Chinese-built ships. USTR's proposed actions will not change that but will likely divert much of the U.S.-origin grain trade to other countries. The timeframe for phasing this in will decimate exports before the U.S. could even build one ship capable of carrying grain beyond the Great Lakes.

Finally, this process has led to considerable uncertainty, and we urge USTR to provide clarity as soon as possible. The proposed actions would be unprecedented and would have to be resolved in contract terms. This is already causing real problems for the grain trade and overseas customers, who are hesitant to make purchases with potentially enormous port fees looming. Contract terms are already being amended to account for the increased shipping costs of U.S. wheat exports making other origins far more competitive. Similarly, companies that have bought freight months in advance are facing complex negotiations over these unforeseen new substantial shipping costs.

Thank you for considering these comments.

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

ABOUT National Association of Wheat Growers
NAWG is a federation of 20 state wheat grower associations that works to represent the needs and interests of wheat producers before Congress and federal agencies. Based in Washington, D.C., NAWG is grower-governed and grower-funded and works in areas as diverse as federal farm policy, trade, transportation, and uniting the wheat industry around common goals. For more information, visit our website at www.wheatworld.org.