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2014 National Trade Estimate Report
Sanitary-PhytoSanitary (SPS) and Standards

European Union

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SPS regulatory standards around the world are a concern for the U.S. wheat industry because roughly 50 percent of U.S. wheat production is exported each year. Since the conclusion of the Uruguay Round, with its strengthening of SPS measures and restrictions on the use of tariffs and quotas, importing countries have devoted more resources to developing and enforcing SPS regulations and regulations have proliferated. New food safety standards are also being implemented. In some instances, U.S. Wheat Associates (USW) questions whether these SPS requirements are based on sound science and make use of the least trade distorting measures, or instead are based on misperceptions or are motivated by purposes other than intended by the SPS agreement. The U.S. wheat industry's focus on these issues parallels the priorities of the U.S. government to combat SPS issues that pose a significant barrier to international trade.

Plant health regulations present 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 seeds in particular are an evolving concern as importing countries review and add to their weed seed restrictions and tighten enforcement actions. 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 completely eliminate the United States as a supplier to markets that may have been historical customers.

Food safety requirements are also proliferating. Many if not most 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. Most recently, several importing countries have established comprehensive food safety system requirements. Generally U.S. wheat conforms to these requirements,

but the proliferation of requirements and the uncertainty of differing requirements, testing delays, false positives or uneven enforcement can discourage trade.

Regulations limiting the import of commodities derived through biotechnology are a concern to the wheat industry. 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 the wheat industry.

Some exporters have no problem issuing certificates on SPS issues, such as freedom from weed seeds, limits on mycotoxins or heavy metals or freedom from other contaminants as requested by importers in situations where U.S. agencies would consider the documentation to support such statements as inadequate or even non-existent. USDA's Federal Grain Inspection Service (FGIS) and Animal Plant Health Inspection Service (APHIS) rightly refuse to make statements or issue certificates that cannot be verified with sufficient certainty. This willingness by others to issue required SPS certification just to conduct the business has swayed a number of key buyers, most notably India a few years ago, toward competitors even when the buyer appears to know that the documentation most likely has no factual basis and the shipment may not conform to the requirement.

The following provides country specific examples of SPS measures USW feels are not based on sound science or are not implementing using least trade restricting measures.

European Union

The U.S. wheat industry is particularly concerned with continued resistance by the EU towards imports of genetically modified (GM) food. The EU has a labeling tolerance of 0.9 percent approved events and a zero-tolerance for unapproved events for food. The lack of a low level presence tolerance can and has resulted in market disruption for some commodities. The EU does not have a functioning regulatory system for biotechnology approvals, and several submitted GM events remain unapproved long after being approved and going into production in other non-EU countries.

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 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 United States and Canada mainly ship wheat to the EU from ports on the Great Lakes. 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 being found in a few counties in Arizona. In the nearly 15 years since KB was first found in the United States, there has been no case where KB has emerged elsewhere in the world as a result of U.S. wheat imports and 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.

The EU has sampling and testing requirements for vomitoxin (deoxynivalenol or DON) and ochratoxin in imported wheat shipments. FGIS offers official testing services for both these mycotoxins, but the EU has not accepted that the rapid methods approved by FGIS are equivalent to the method they require or that FGIS sampling, especially for ochratoxin, is sufficiently intensive. Testing at destination delays delivery which adds costs and creates uncertainty for both buyers and shippers and thus discourages sales. The U.S. Department of Agriculture's Federal Grain Inspection Service (FGIS) recently agreed to pursue gaining European Commission recognition of FGIS sampling and testing methods for vomitoxin and ochratoxin in U.S. wheat exports, and we encourage an outcome that reduces burdens for wheat exports.

The EU is sensitive to cadmium in food products, and during 2010 a proposal was publicized to reduce the EU cadmium limit to 0.10 ppm in durum wheat from the current level of 0.20 ppm. After criticism from EU and non-EU durum producing countries, the proposed level was revised to 0.15 ppm and finally tabled entirely for now. However, it is doubtful that the issue is permanently resolved, and the cadmium limit is likely to be revisited again in the future.

The EU-28 as a group is a large wheat importer, with imports of around 7.0 MMT each year. Based on EU-28 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.