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Agriculture in the WTO: Limits on Domestic Support

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Summary

Most of the provisions of the current farm bill, the Food, Conservation, and Energy Act of 2008 (P.L. 110-246), do not expire until 2012. However, hearings on the 2012 farm bill have already begun. Congress is in the process of reviewing farm income and commodity price support proposals that might succeed the programs due to expire in 2012.

A key question likely to be asked of virtually every new proposal is how it will affect U.S. commitments under the WTO's Agreement on Agriculture (AA), which commits the United States to spend no more than $19.1 billion annually on domestic farm support programs most likely to distort trade. The AA spells out the rules for countries to determine whether their policies are potentially trade-distorting, and to calculate the costs. This report describes the steps for making these determinations.

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Introduction

Major farm income and commodity price support provisions of the current omnibus farm bill, the Food, Conservation, and Energy Act of 2008 (P.L. 110-246), do not expire until 2012.[1] However, discussions of a 2012 farm bill are already underway within various farm and commodity organizations. The House Agriculture Committee began hearings to review U.S. agriculture policy in advance of the 2012 farm bill in April.[2] In June, Senate Agriculture Committee Chairwoman Blanche Lincoln announced that her committee would also begin hearings on the reauthorization of the 2008 farm bill, with the first hearing scheduled for June 30, 2010. Such hearings mark the official start of the examination of options for modifying and extending the current farm programs.

One major constraint affecting future policy choices will be U.S. agricultural policy commitments under the World Trade Organization's (WTO's) Agreement on Agriculture (AA).[3] Regarding domestic farm programs, the AA contains detailed rules and procedures to guide countries in determining the programs (known as amber box subsidies) that are most likely to distort production and trade; in calculating their annual cost, measured by the aggregate measurement of support (AMS) index; and in reporting total cost to the WTO. The United States currently is committed, under the AA, to spending no more than $19.1 billion per year on amber box support.

Thus, a key question that policymakers will ask of virtually every new farm proposal is, how will it affect U.S. commitments under the AA? The answer depends not only on cost but also on the proposal's design and objectives.

AA Provisions for Domestic Farm Spending

The WTO's AA procedures for classifying and counting trade-distorting support are somewhat complex. However, four questions might be asked to determine whether a particular farm measure will cause total U.S. domestic support to be above or below the $19.1 billion annual AMS limit.

1. Can the measure be classified as a *"green box" policy*—one presumed to have the least potential for distorting production and trade and therefore not counted as part of the AMS?
2. Can it be classified as a *"blue box" policy*—that is, a production-limiting program that receives a special exemption and is therefore also not counted as part of the AMS?

[1] For more information, see CRS Report RL34696, *The 2008 Farm Bill: Major Provisions and Legislative Action*, coordinated by Renée Johnson.

[2] On April 21, 2010, Secretary of Agriculture Tom Vilsack testified to the House Agriculture Committee, in the Longworth House Office Building. This was followed by a series of field hearings in Iowa, Idaho, California, Wyoming, Georgia, Alabama, Texas, and South Dakota, as well as additional hearings in Washington, DC. For more information, see the House Agriculture Committee's website at http://agriculture.house.gov.

[3] For more information, see CRS Report RL32916, *Agriculture in the WTO: Policy Commitments Made Under the Agreement on Agriculture*, by Randy Schnepf.

3. If it is a potentially trade-distorting *"amber box" policy*, can support still be excluded from the AMS calculation because the total is no more than 5% of annual production value (the so-called 5% *de minimis exemption*, explained later in more detail)?
4. If such support does exceed the 5% threshold, when it is added to all other forms of non-exempt amber box support, is total U.S. AMS still beneath the $19.1 billion maximum?

Can This Measure Be Placed in the Green Box?

To qualify for exemption in the green box , a program must meet two general criteria, as well as a set of policy-specific criteria relative to the different types of agriculture-related programs.[4] The two general criteria are:

1. It must be a publicly funded government program (defined to include either outlays or forgone revenue) that does not involve transfers from consumers.
2. It must not have the effect of providing price support to producers.

In addition, every green-box-qualifying program must comply with the following list of criteria and conditions specific to the program itself.

- A **"general service"** benefitting the agriculture or rural community in general cannot involve direct payments to producers or processors. Such programs can include research; pest and disease control; training, extension, or advisory services; inspection services, including for health, safety, grading, or standardization; marketing and promotion services, including information advice and promotion (but not spending for unspecified purposes that sellers could use to provide price discounts or other economic benefits to purchasers); and generally available infrastructure like utility, transportation, or port facilities, water supply facilities, or other capital works construction.
- Public acquisition (at current market prices) and **stockholding of products for food security** must be integral to a nationally legislated food security program and be financially transparent.
- **Domestic food aid** is to be based upon clearly defined eligibility and nutritional criteria, be financially transparent, and involve government food purchases at current market prices.
- **"Decoupled" income support** is to use clearly defined eligibility criteria in a specified, fixed base period; not be related in any way after the base period to (a) domestic or world prices, (b) type or volume of crop or livestock production, or (c) factors of production; and, further, not be contingent on any production in exchange for payments.
- Government financial participation in an **income insurance or income safety net program** should define eligibility as agricultural income loss exceeding 30% of average gross income (or equivalent in net income terms) in the preceding

[4] The so-called green box is actually Annex 2 of the AA.

three-year period (or preceding five-year period, excluding the highest and lowest years—the so-called Olympic average), with such payment compensating for less than 70% of the income loss in year of eligibility, and payments based solely on income, not production, price, or inputs. Total annual payments under this and natural disaster relief (see next paragraph) cannot exceed 100% of a producer's total loss.

- Payments (whether direct or through government crop insurance) for **natural disaster relief** are to use eligibility based on formal government recognition of the disaster. Payments are to be determined by a production loss exceeding 30% of production in the preceding three-year (or five-year Olympic average) period, apply only to losses of income, livestock, land, or other production factors, and cannot exceed the total replacement cost or require types/quantities of future production. Total annual payments under this and the income insurance or safety net measure cannot exceed 100% of a producer's total loss.
- **Structural adjustment through producer retirement** shall tie eligibility to clearly defined criteria in programs to facilitate producers' "total and permanent" retirement from agricultural production or their movement into nonagricultural activities.
- **Structural adjustment through resource retirement** shall be determined through clearly defined programs designed to remove land, livestock, or other resources from marketable production, with payments (a) conditioned on land being retired for at least three years and on livestock being permanently disposed; (b) not contingent upon any alternative specified use of such resources involving marketing agricultural production; and (c) not related to production type/quantity, or to prices of products using remaining productive resources.
- **Structural adjustment provided through investment aids** must be determined by clearly defined criteria for programs assisting financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages (and may also be based on a clearly defined program for "reprivatization" of agricultural land). The amount of payments (a) cannot be tied to type/volume of production, or to prices, in any year after the base period; (b) shall be provided only for a time period needed for realization of the investment in respect of which they are provided; (c) cannot be contingent on the required production of designated products (except to require participants not to produce a designated product); and (d) must be limited to the amount required to compensate for the structural disadvantage.
- **Environmental program payments** must have eligibility determined as part of a clearly defined government environmental or conservation program, and must be dependent upon meeting specific program conditions, including conditions related to production methods or inputs. Payments must be limited to the extra costs (or loss of income) involved with program compliance.
- **Regional assistance program payments** shall be limited only to producers in a clearly designated, contiguous geographic region with definable economic and administrative identity, considered to be disadvantaged based on objective, clearly defined criteria in the law or regulation, which indicate that the region's difficulties are more than temporary. Such payments in any year (a) shall not be related to or based on type/volume of production in any year after the base period

(other than to reduce production) or to prices after the base period; (b) where related to production factors, must made at a degressive rate above a threshold level of the factor concerned; and (c) must be limited to the extra costs or income loss involved in agriculture in the prescribed area.

In conclusion, the above measures are eligible for placement in the green box (i.e., exempted from AMS) as long as they (1) meet general criteria one and two, above; and (2) additionally comply with any criteria specific to the type of measure itself. If these conditions are satisfied, no further steps are necessary; the measure is exempt. *However, if not, then the next step is to determine whether it qualifies for the blue box exemption.*

Can This Measure Be Placed in the Blue Box?

To qualify for exemption in the blue box,[5] a program must be a direct payment under a production-limiting program, and must also either

- be based on fixed areas and yields, or
- be made on 85% or less of the base level of production, or,
- if livestock payments, be made on a fixed number of head.

If these conditions are satisfied, the measure is exempt. *However, if not, then it is considered to be an amber box policy, and the next step is to determine whether spending is above or below the 5% de minimis rate (see below).*

If Amber, Will This Support Exceed 5% of Production Value?

The AA states that developed country members (including the United States) do not have to count, when calculating their total AMS, the value of amber box programs whose total cost is small (or benign) relative to the value of either a specific commodity, if the program is commodity-specific, or the value of total production, if the program is not commodity-specific.[6] In other words, "amber box" (i.e., potentially trade-distorting) policies may be excluded under the following two de minimis exclusions:

- **Product-specific domestic support,** where it does not exceed 5% of the member's "total value of production of a basic agricultural product during the relevant year." Support provided through all of the measures specific to a product—not just a single measure in question—is tallied to determine whether the 5% level is exceeded.
- **Non-product-specific domestic support,** where it does not exceed 5% of the "value of the member's total agricultural production." All non-product-specific support—not just a single measure—is tallied to determine whether the 5% level is exceeded.

[5] AA, Article 6.5.

[6] AA, Article 6.4.

These provisions are known as the so-called de minimis clause. To reiterate, it is not enough to determine whether a single amber box measure (i.e., one not classified as either green or blue) by itself may be beneath the 5%-of-production-value trigger. Its level of support must be added to the support provided by other non-exempt (amber box) measures. *If the cost of any particular measure effectively boosts the total support above 5%, then all such support must be counted toward the U.S. total annual AMS.*

Does This Total Annual AMS Now Exceed $19.1 Billion?

Finally, all support that fails to qualify for an exemption is added for the year.

- If the total does not exceed $19.1 billion, then the United States has met its WTO commitment.
- If it does exceed $19.1 billion, the United States has not met its WTO commitment.

Classification of U.S. Policies

The last U.S. notification to the WTO was made on January 9, 2009, for the marketing years 2006 and 2007. Following are examples of how various U.S. domestic policies were classified in that notification.[7]

Green Box Policies

General Services

- USDA research, cooperative extension, and economics programs
- Animal and Plant Health Inspection Service (APHIS) pest and disease programs
- Food Safety and Inspection Service (FSIS) meat and poultry inspection
- Agricultural Marketing Service (AMS), Grain Inspection, Packers and Stockyards Administration (GIPSA), and other marketing services, including grading, quality inspection, and market news
- Natural Resources Conservation Service (NRCS), National Agricultural Statistics Service (NASS), Economic Research Service (ERS), and the World Agricultural Outlook Board
- State programs for agriculture

[7] "U.S. Domestic Support Notification for Marketing Years 2006 and 2007," G/AG/N/USA/66, WTO, January 19, 2009.

Domestic Food Aid

- Domestic food programs, including food stamps, child nutrition programs , the special supplemental food program for women, infants, and children (WIC), and Section 32 food purchases

Decoupled Income Support

- Direct payments
- Tobacco quota buyout payments

Payments for Relief from Natural Disasters

- Disaster payments for livestock and crop losses due to natural disasters
- Non-insured crop disaster assistance program (NAP) payments

Structural Adjustment Through Investment Aids

- Farm credit, including Farm Service Agency (FSA) farm ownership and operating loans, and state mediation programs

Environmental Payments

- Environmental Quality Incentives Program (EQIP)
- Conservation Reserve Program (CRP) payments

Blue Box Policies

The United States has not notified any payments under the blue box since 1995 (the first year of WTO notifications). In that year, U.S. blue box notifications consisted entirely of target-price deficiency payments, which ended with 1996 farm law (P.L. 104-127).

De Minimis Exclusions

- Product-Specific de minimis exclusions totaled $0.2 billion in 2007, including corn, cotton, peanuts, rice, soybeans, and minor grains and pulses.
- Non-Product-Specific de minimis exclusions of $2.0 billion in 2007 were well below 5% of the total value of U.S. agricultural production of $307 billion.

Amber Box Policies

Product-Specific Support

- Dairy price support
- Sugar price support

- Marketing loan benefits, including gains from repaying marketing loans at less than the loan rate and loan deficiency payments
- Storage payments and commodity loan interest subsidies

Non-Product Specific Support

- Irrigation programs
- Grazing programs
- Federal crop and revenue insurance (value of indemnities less premiums paid)
- Counter-cyclical payments
- State credit programs
- Farm storage facility loans

Outlook

Negotiations are underway in the WTO to further reform agricultural trade.[8] They are not expected to be completed before Congress decides on a new farm bill. As lawmakers consider policy options, other countries will be evaluating not only whether, in their view, these options will comply with the U.S. commitments under the AA, but also how they reflect on the U.S. negotiating position in the ongoing talks. The U.S. objective is for negotiations to result in substantial reductions in trade-distorting support and stronger rules that ensure that all production-related support is subject to discipline, while preserving criteria-based "green box" policies that can support agriculture in ways that minimize trade distortions. At the same time, Congress might seek methods that it can justify as AA-compliant.

In addition to U.S commitments made under the WTO's AA, U.S. farm policy—to the extent that domestic policy effects spill over into international markets—is also subject to certain rules under the Agreement on Subsidies and Countervailing Measures (SCM).[9] Policies or programs found to be in violation of WTO rules may be subject to challenge by another WTO member under the WTO dispute settlement process. If a WTO challenge occurs and is successful, the WTO remedy likely would imply either the elimination, alteration, or amendment by Congress of the program in question to remove its adverse effects. Since most governing provisions over U.S. farm programs are statutory, new legislation could be required to implement even minor changes to achieve compliance.

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[8] For more information, see CRS Report RS22927, *WTO Doha Round: Implications for U.S. Agriculture*, by Randy Schnepf and Charles E. Hanrahan.

[9] For more information, see CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*, by Randy Schnepf.

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