

CRS Report for Congress

Received through the CRS Web

Agriculture in the WTO: Limits on Domestic Support

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Summary

Most provisions of the current “farm bill,” the Farm Security and Rural Investment Act (FSRIA) of 2002 (P.L. 107-171), do not expire until 2007. However, hearings on a 2007 farm bill could begin in late 2005. At that time, Congress will begin to examine farm income and commodity price support proposals that might succeed the programs due to expire in 2007. 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, which will be updated if events warrant, describes the steps for making these determinations.

Introduction

Major farm income and commodity price support provisions of the last omnibus farm bill, the Farm Security and Rural Investment Act (FSRIA) of 2002 (P.L. 107-171), do not expire until 2007.¹ However, discussions of a 2007 farm bill are already underway within various farm and commodity organizations. The House and possibly the Senate Agriculture Committees could begin hearings on a new farm bill before the end of 2005. Such hearings would mark the official start to an examination of the options for modifying and extending the current programs. One major constraint affecting future policy choices will be U.S. agricultural policy commitments made under the WTO’s Agreement on Agriculture (AA).²

¹ For more information, see CRS Report RS22131, *Agriculture: Previewing a Farm Bill*.

² The official text of the AA is at [http://www.wto.org/english/docs_e/legal_e/legal_e.htm#ag]. For more information, see WTO, *Understanding the WTO: the Agreements*, “Agriculture: Fairer Markets for Farmers,” at [http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm].

Regarding domestic farm programs, the AA contains detailed rules and procedures to guide countries in determining which programs are the most likely to distort production and trade (known as amber box subsidies); 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. So, 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 rests 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 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?
2. Can it be classified as a "blue box" policy — that is, a production limiting program that receives a special exemption and also therefore not counted?
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 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 (AA, Annex 2), a program must:

1. Be a publicly funded government program (defined to include either outlays or forgone revenue) that does not involve transfers from consumers, *and also*
2. Not have the effect of providing price support to producers, *and also*
3. Meet the following policy-specific criteria and conditions:
 - 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 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 production factors (and total annual payments under this and natural disaster relief [see below] 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 determined by a production loss exceeding 30% of production in the preceding three-year (or five-year olympic average) period, applied only to losses of income, livestock, land, or other production factors, and for not more than the total replacement cost, and not requiring types/quantities of future production (and total annual payments under this and the above 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 non-agricultural 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 them 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 be dependent upon meeting specific program conditions, including conditions related to production methods or inputs; and 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 be 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 (AA, Article 6.5), a program must:

Be a direct payment under a production limiting program, *and 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 they are considered to be amber box policies, 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 (Article 6.4) states that developed country members (including the United States) do not have to count, when calculating their total AMS, the following “amber box” (i.e., potentially trade-distorting) policies:

- **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.

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 this particular measure effectively boosts 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 for 2001. Following are examples of how various U.S. domestic policies were classified in that notification.

Green Box Policies

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

- Agricultural Market Transition Act (AMTA) (production flexibility) payments; which are considered “decoupled”;
- Food security commodity reserve;
- Disaster payments for livestock and crop losses due to natural disasters;
- Conservation programs like conservation operations and the Environmental Quality Incentives Program (EQIP);
- Farm credit, including Farm Service Agency (FSA) farm ownership and operating loans; and state mediation programs;
- The Conservation Reserve Program (CRP, considered to be exempt as structural adjustment through resource retirement).

Blue Box Policies

- Target price deficiency payments (which ended with 1996 farm law).

Amber Box Policies

Product-specific support:

- Dairy price support;
- Sugar price support;
- Peanut price support;
- Marketing loan benefits, including gains from repaying marketing loans at less than the loan rate; loan deficiency payments; user marketing certificates; etc.;
- Storage payments.

Non-product specific support:

- Irrigation programs;
- Grazing programs;
- Federal crop insurance (value of indemnities less premiums paid).

Outlook

Negotiations are now under way in the WTO to further reform agricultural trade. 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. U.S. officials also may seek to influence multilateral roles in ways that are consistent with U.S. domestic support policy aims and measures (See CRS Report RS21905, *Agriculture in the WTO Doha Round: The Framework Agreement and Next Steps*.)