Stuck in the Mud
How Farm Policy Undermines Free Trade
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Introduction

The relationship between international trade and trade policy and the Farm Bill is complex and largely indirect, but vital to the industry. The future of agricultural incomes in the United States will be shaped largely by trade prospects. One-quarter to one-third of total farm receipts are obtained from overseas sales, with agricultural exports reaching $97 billion in 2009, having doubled since 1999. The domestic market for farm and food products grows rather slowly and, absent regulation-driven incentives for the increased use of agricultural commodities to produce energy, by itself could not sustain incomes at current levels. Continued increases in exports are needed to maintain the health of the farm sector and ancillary industries.

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Nevertheless, trade policy—the strategy and set of instruments that seek to change the trade environment—is not a key part of the Farm Bill. The trade title of the Farm Bill deals with some matters of trade policy but is limited to unilateral actions such as food aid and export credit. Trade policy also includes efforts to influence the actions of other countries, and those efforts have not been a major concern in the Farm Bill. So, though trade is key to agricultural incomes, trade policy is not a major focus of congressional farm policy initiatives.

Trade policy and farm policy are separate and influenced by different considerations, so they can sometimes be at odds. This was particularly true in the early postwar period, as pointed out by D. Gale Johnson over sixty years ago. At that time, US trade policy was targeted toward developing a relatively open multilateral trade system for manufactured goods that would bolster the spread of democratic institutions and political stability and, in particular, avoid the inward-looking policies that had contributed to the turbulence of the 1930s. At the time, domestic political conditions prevented the United States from including agricultural goods fully in the rules of the General Agreement on Tariffs and Trade (GATT) in 1947. As a result, for forty-seven years the GATT agricultural policies of the United States and most other developed countries escaped disciplines that would have facilitated the development of an open agricultural trade system.

The situation has improved significantly since the establishment of the World Trade Organization (WTO) in 1994, particularly with the adoption of the Uruguay Round Agreement on Agriculture (URAA). However, the contrast between the desire for more open trade for cereals, meats, fruits, and vegetables and the defensive approach toward reducing protection for such products as milk, sugar, and cotton is still pronounced. Internal political pressures account for much of this inconsistency, and the debilitating impact of those pressures on the effectiveness of US trade policy cannot be overstated.

The significance of trade to US agriculture and to the economy as a whole extends beyond growing export markets for agricultural commodities. Imports of food products give consumers a wider choice, and competition from foreign producers helps keep prices down. The engagement of agribusiness with foreign companies spurs innovation and the transfer of technology. But the leadership shown in past decades, when agriculture was at the forefront of pressures for more open markets, has been replaced by concern about the ability to compete with countries such as Brazil and China that have emerged as major players in global food markets. Innovations in farm policy, therefore, can play a constructive role in restoring the competitiveness and confidence of the sector.

This paper attempts to chart the way in which trade policy and farm policy can be made more coherent. First, current trade agreements are briefly discussed, as well as their impact on domestic farm policy and the Farm Bill. This is followed by an exploration of the significance of several WTO cases for the formulation of such policy. Then the prospect for further agreements is explored, both those negotiated at a multilateral level and those negotiated among groups of countries. The direct link between the Farm Bill and trade policy through the inclusion of the trade title is discussed, and the other legislative linkages with agricultural trade are explored. Finally, a concluding section offers some suggestions on improving consistency between trade and farm policy actions.

Trade Agreements and Trade Opportunities

Trade agreements set the parameters for market expansion. The agreements do not guarantee
markets, but they reduce border taxes and transaction costs faced by exporters. Regional and bilateral agreements also influence export conditions by providing a degree of preference for US exporters relative to their competitors. Trade agreements also offer opportunities for other countries to compete in US markets; though politically difficult, this is an essential aspect of trade policy.

Trade agreements also set rules for trade and often provide means by which compliance with those rules can be challenged and adjudicated. These rules cover a range of potential impediments to trade, including dumping by other countries, increases in tariff barriers through safeguards, the operation of standards and technical regulations, and the protection of intellectual property. Trade agreements are therefore the embodiment of trade policy, encompassing rules that relate to government actions. Constraints on the actions of others are generally welcomed; constraints on US actions are less well accepted.3

A brief look at past trade agreements provides the context for a discussion about future options.4 At the multilateral level, the establishment of the WTO at the end of the Uruguay Round was a major development in the relationship between trade agreements and domestic farm programs. The URAA set the underlying rules for domestic policy, including negotiated limits on domestic support, bound tariff levels, and curbs on export subsidies.5 Tariff levels were cut and minimum-access commitments were established in cases where imports had been restricted by nontariff barriers. Farm and food exporters in the United States benefited significantly from these improved disciplines, as other countries moderated their domestic subsidy programs and began to open up their markets to international competition.

Other aspects of the Uruguay Round have also expanded agricultural trade. The round included an agreement on the use of sanitary and phytosanitary (SPS) measures, requiring that they be based on risk assessment supported by science. Other agreements covered the use of standards other than for health and safety (the Technical Barriers to Trade Agreement) and the protection of geographical indications (as part of the Agreement on Trade-Related Aspects of Intellectual Property Rights). Each contributed to the development of a global food market in which transaction costs were reduced and arbitrary trade restrictions discouraged. Subsidies to particular firms and industries, including agriculture, are regulated by the Agreement on Subsidies and Countervailing Measures.6 Further, each agreement falls within the scope of the Dispute Settlement Understanding (DSU), which has transformed the ability of countries to challenge others when they suspect a violation of a commitment or when the actions of another government are prejudicial to their interests.

The elements of the URAA that introduced the most direct restrictions on domestic farm policy were the provisions concerning domestic support (defined within the agreement as payments to farmers and actions that set administered prices above world market levels).7 The United States argued for such constraints, and trade-distorting support has been reduced in a number of countries, as documented in a recent study that traces WTO notifications from 1995 to 2008 for four developed countries (the United States, the European Union [EU], Japan, and Norway) and four developing countries (Brazil, China, India, and the Philippines).8

Reductions in domestic support have been particularly substantial in the EU and Japan. In the EU, a succession of domestic policy reforms has lowered the trade-distorting support from €50.2 billion in 1995 to €22.1 billion in 2008. Japan reduced its trade-distorting support from ¥3,508 billion to ¥511 billion over the same time period, but only as a result of minor changes in program administration that had little impact on domestic producers.

The developing countries included in the study did not have to reduce trade-distorting support as they did not notify such support in the base period (with the exception of a small amount of support by Brazil). However, the restraints may have prevented these countries from introducing price-related policies and payments to farmers above about 20 percent of the value of their farm production.9
There is no evidence that the limits to domestic support to which the United States agreed have significantly restrained overall domestic policy decisions in the past three Farm Bills, though individual commodity programs such as cotton have been significantly affected. US notifications of the Aggregate Measurement of Support (AMS) have run well below the limits agreed to in the Uruguay Round. The latest notification records a level of trade-distorting support (current total AMS) of $6.3 billion for 2008, compared to the limit (final bound total AMS) of $19.1 billion. The movement toward green-box measures, which are unconstrained by the URAA, received a boost from the 1996 Farm Bill, which provided “decoupled” payments based on past rather than current production.10 Since then, the trend has not been so evident in the United States: the 2002 Farm Bill locked in emergency payments made during the 1998–2002 period, and these payments were clearly tied to prices. The 2008 Farm Bill (the Food, Conservation, and Energy Act) made no major changes to the types of policy instruments used. So WTO rules, as currently interpreted, pose little constraints on the scope of Farm Bill action.11 Indeed, as discussed below, direct payments could well be cut in the 2012 Farm Bill, potentially leaving trade-distorting subsidies a greater proportion of total support.

Export subsidies have also been reined in, and no new subsidies have been introduced. In 1995, the immediate effect was masked by high world prices. It was not until 1998 that any effects became noticeable. Low prices led to policy reactions in many countries, but the United States resisted the temptation to reintroduce export subsidies for many commodities. Thus, the EU was isolated as the only major user of export subsidies, and even the EU restricted its use over this period, so domestic prices were allowed to fall. The EU’s introduction of direct payments for crops cushioned farm incomes, and this instrument has been expanded over time to decouple support from prices. At present, most explicit export subsidies are used to support dairy prices (in both the United States and the EU).

While some success can be claimed for the restraints on domestic support and the limits on export subsidies, the most significant rule change came in market access. The ban on quantitative restrictions and their conversion into tariffs have had a marked effect on trade. The “interim” measure of tariff-rate quotas still impedes trade, but the trade treatment of agricultural goods is now much more similar to the trade treatment of manufactured products.

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The Uruguay Round led to only modest reductions in tariffs. The Doha Round (see below) may have a significant impact on tariffs, and in particular may cut high tariffs by a greater percentage, but it will be many years before tariff barriers are eliminated on agricultural products.

This suggests a complementarity with the plethora of trade agreements that have been completed outside the WTO. Regional trade agreements, along with bilateral agreements, are generally more focused on market access; areas such as domestic support and export subsidies are not often covered. The United States now has trade agreements with over twenty countries in place or awaiting congressional approval, each of which involves improved market access for US agricultural exporters. Most improve the degree of access for the other partner, although in some cases that access was already granted on a nonreciprocal basis.

Among regional agreements, the North American Free Trade Agreement has the most impact on US farm policy. The market for agricultural goods between Mexico and the United States is now fully open, though some tensions remain. This limits
policy actions by the United States, as the impacts of those actions are felt over the whole of the US-Mexico market. The bilateral agreements with Chile and Australia are less significant for US farm and trade policy—in part because those countries’ production seasons are complementary to those of the United States, but also (in the case of the US-Australia agreement) because sugar was excluded from the agreement and long transition periods were established before beef and dairy products could be freely imported. Their relevance lies mainly in their strategic importance, as countries align themselves in the global competition for markets. Chile is a valuable ally with access to the large markets of Brazil and Argentina, and Australia leads the push for freer trade in the South Pacific and Southeast Asian regions. Australia has been negotiating a free trade agreement with China, the first such agreement with a developed country. The trade agreement with Central American countries and the Dominican Republic also has only minor implications for US agriculture, though the issue of sugar imports from this region caused problems for negotiators. But they do play a role in the maintenance of open markets in a region of interest to the United States. The same is true for the US-Korea trade agreement now awaiting ratification; its impact on agricultural trade with Southeast Asia is likely to be significant.

While none of these free trade agreements significantly limits US farm policy, each ties US trade policy into a strategic web of commercial and political relations that would normally take precedence over the interests of domestic producer groups. At the least, political capital may need to be expended by producer groups to limit the extent to which offers of access to the US market for agricultural and food products become diplomatic bargaining chips.

Trade Disputes

Trade agreements require provisions for enforcement and the settlement of disputes. These provisions influence policy, as government actions must increasingly be considered in the context of trade rules. A major accomplishment in the Uruguay Round was the strengthening of the dispute-settlement mechanism, which under the GATT had lacked adequate provisions for reaching a conclusion and enforcing decisions. The United States had frequently tried to use GATT disputes to modify other countries’ agricultural policies when they seemed to violate the articles of the GATT, but met with limited success. The frustration of the United States and others with the ineffectiveness of the GATT dispute-settlement process led to the adoption of the DSU in the Uruguay Round. Two longstanding disputes with the EU, over beef hormones and bananas, became test cases for the new DSU, and in both cases WTO panels found in favor of the United States. They illustrated the stronger legal underpinnings of the DSU relative to the more political GATT process but also demonstrated the difficulty of using litigation to persuade other WTO members to make politically difficult decisions. In both cases, a political compromise was needed after several years of litigation.

The use of the WTO dispute-settlement mechanism to ensure that other countries abide by their obligations has been a notable feature of US trade policy in recent years. The United States initiated 22 percent of the agricultural complaints brought to the WTO between 1995 and 2008. In addition to the prominent banana and beef-hormone cases, the United States challenged both Japan and Korea on their technical regulations and border-inspection procedures for imported produce. Along with New Zealand, the United States challenged the Canadian policy of selling milk cheaply to cheese producers for export into world markets. The WTO panel found that the program (even after a change in policy by Canada) had indeed benefited cheese exporters. Significant in this decision was the ruling that the subsidy to exports (illegal because it was not notified by Canada in its schedule) was a result of a domestic policy of guaranteeing a domestic price related to the cost of production. This widened the scope for challenging export subsidies for agricultural products,
as the EU found when another panel ruled that its domestic sugar program subsidized exports.

Two other policies that had been irritants for US agricultural interests were also referred to WTO panels. The United States challenged the EU rules on biotechnology, as well as the policy of granting protection for foods from particular geographical regions. In both cases, the dispute panels ruled in favor of the United States, and the EU had to modify the administration of its policies. However, neither in the biotech nor in the geographical indications (GI) case was a clear policy shift induced by the WTO panel reports. The challenges, as in most cases, dealt with the legality of the operation of the policy rather than with its main thrust or the legitimacy of the underlying legislation. The EU can reasonably argue that its laws on genetically modified organisms (GMOs) and GIs have passed WTO scrutiny with little more than minor adjustments.

By 2002, the situation began to change. It was the United States’ turn to be in the spotlight. Other countries began to view the US approach to international commitments as less than rigorous and to contemplate challenges to US programs in agriculture and food. The most dramatic challenge came from Brazil, emerging as a leader of the Latin American countries and a strong advocate for multilateral trade rules. The issue was whether the main commodity programs in the US Farm Bill were adversely affecting competitors even if they were in apparent conformity with the URRAA. After considering products such as soybeans, rice, and corn, Brazilian authorities decided to focus on US cotton subsidies. US cotton production and exports had been expanding despite low prices in world markets, and there were extra subsidies for cotton processors (called Step 2 payments) and an aggressive export credit program, which could both be incompatible with the WTO. Indeed, the WTO panel found that these two export incentives were subsidies not sheltered by US schedules and recommended that they be removed.

The US cotton program changed as a result of the WTO ruling—perhaps the first time a GATT/WTO ruling had directly influenced farm policy. The Step 2 subsidies were removed, though they were replaced in the 2008 Farm Bill by another policy that also benefited cotton processors. The export credit program was also modified to reduce its vulnerability. But the more complex ruling dealt with the commodity programs, as operated under the 1996 and 2002 Farm Bills, including direct payments, loan-rate programs, and countercyclical programs. The panel found that the loan-rate system did cause “serious prejudice” to overseas cotton producers, though direct payments did not. But direct payments, according to the panel, were not consistent with the provisions of the WTO green box, as the production decisions of farmers receiving such payments were not unconstrained.

The Doha Round may have a significant impact on tariffs, but it will be many years before tariff barriers are eliminated on agricultural products.

The success of the Brazilian challenge to the US program for upland cotton encouraged a wider look at US domestic support notifications. Canada, energized by trade disputes over wheat, questioned whether the United States had stayed within its agreed limits for trade-distorting support. Both countries joined together to request a panel to examine the Total Aggregate Measure of Support (TAMS) that the United States had notified to the WTO in several recent years. The TAMS case is still under review, and could be withdrawn if the Doha Round is completed. But even if the case were to result in a panel ruling against the United States, it is not clear what remedies would be required. Farm payments in the past three years have been lower, and the United States could claim that it is now in compliance.

More significant in its impact on US policy may be a challenge by Canada and Mexico to the country-of-origin labeling (COOL) rules introduced
in the 2002 Farm Bill.\(^{20}\) Canada has claimed that the COOL system is injurious to its cattle and hog producers by imposing labeling rules that disadvantage foreign producers. Though WTO rules allow members to require the labeling of goods by source (Article IX, Marks of Origin), there are obligations not to make it more onerous than necessary to protect consumers from fraudulent or misleading indications. Canadian and Mexican producers claim that the procedures—in particular, those for cattle that have been part of “mixed” supply chains, moving across the border as feeder cattle—put an undue burden on them with no benefit to consumers. This issue has deeper ramifications for agricultural trade: the EU is considering its own COOL legislation and will be watching the case closely.\(^{21}\)

Whether cases that challenge US policy will continue to increase in number may depend on the fate of the Doha Round. Not only will its conclusion reduce the significance of some of the practices that lead to disputes, but the political climate may improve enough to make countries unwilling to pursue challenges. However, the new rules will undoubtedly lead to differences of interpretation and attempts to cast domestic legislation to minimize the impacts on politically sensitive groups. Changing market conditions will also generate potential trade conflicts that were not anticipated when the trade agreements were negotiated. The sudden emergence of bio-ethanol and biodiesel illustrates the changing nature of agricultural markets. The use of corn, sugar cane, and oilseed crops for fuel production has shifted the economics and politics of these crops and could generate new trade conflicts in the near future.

### The Future of Multilateral Trade Agreements

Discussions on the 2012 Farm Bill are taking place when the outcome of the Doha Round is still uncertain. Negotiations have reached a stage where a burst of political engagement is needed to reach an agreed outcome. A draft of the level of cuts in domestic support, tariff reductions, and the schedule for elimination of export subsidies and equivalent instruments has been available since December 2008, and the technical issues of translating an eventual agreement into schedules of commitments are largely solved. But the final package will have to include nonagricultural tariff cuts and further liberalization in service trade. Until the political deal has been struck, the nature and timing of a revised agreement on agriculture is uncertain.

It is possible to examine the potential impact on the United States of the outcome to the Doha Round, assuming the 2008 Farm Bill is essentially continued. This will indicate the extent of the Doha Round’s impact on Farm Bill choice. The URRA put constraints on the level of the current total AMS (usually called amber-box support). The Doha Round would add a constraint on the overall trade distorting support (OTDS) in addition to a new AMS limit and a limit on blue-box support.\(^{22}\) The cuts envisaged in the December 2008 draft modalities would reduce the OTDS by 70 percent, from a base of $48 billion to just over $14 billion by the end of a proposed five-year transition period.\(^{23}\) Trade-distorting domestic support would therefore be limited to about 7.5 percent of the base-period value of production.

Constraints from the Doha Round on US programs may benefit other countries. For US agriculture, the impact on the farm policies of other countries is more important. In one respect, the Doha Round would end tension that has bedeviled transatlantic commercial relationships for fifty years. The Common Agricultural Policy of the EU has been a perennial thorn in the flesh of US agriculture, with high prices maintained by import levies and export subsidies. The Common Agricultural Policy has changed markedly in recent years, but there is no guarantee that it could not again become a problem for agricultural exporters. There is a real possibility on the negotiating table to make permanent the recent changes in the farm policies of the EU. Under the draft modalities of December 2008,\(^{24}\) the limit on the OTDS would be reduced by 80 percent from a base of €120 billion to €24 billion. Thus, support would
be pegged at about 9 percent of the base-period value of farm production, a figure not significantly greater than that of the United States.\textsuperscript{25}

In contrast, the impact on Japan, the other developed country with extensive domestic programs that distort markets, will be minimal because its level of trade-distorting support is well below the Doha proposed limit. The new limit would constitute 14 percent of the value of production. Benefits to US agriculture from additional changes in Japanese policy will come more from the reduction in tariff rates than from curbs on subsidies.\textsuperscript{26}

The attempt to apply disciplines to farm policies in developed countries has been generally successful (if completed in the Doha Round). But remaining problems will keep the direct link between trade and domestic farm policy alive for some time. More generally, there is ample scope for disagreement over whether the URAA’s definition of green-box subsidies, which are supposed to have minimal or no impact on trade, is still appropriate. There has been a major shift away from price supports, but it is not clear that the combination of environmental payments, insurance programs, and direct support is as production-neutral as it appeared in 1995. And even the reduction of trade-distorting subsidies may have been a result of administrative actions that had little impact on farm incomes.

**Current Prospects for Bilateral Trade Agreements**

The rush of countries to secure trade agreements with significant trade partners is both a function of the slow progress in the Doha Round and an attempt to not be left behind in the search for expanding markets. As more agreements are concluded, the potential cost for excluded countries increases. The United States is beginning to feel pressure from other agreements as competing exporters cut into overseas sales of farm products.

Bilateral trade agreements with Korea, Panama, and Colombia are currently awaiting congressional approval. The US agricultural sector is broadly supportive of all three. Korea is already a significant market for US farm products, but preferential access would increase farm exports—providing a steady increase in access to the Korean beef market and duty-free treatment for most other products. It was unrealistic to expect the Korean government to allow rice imports without restriction, and trade in beef is also very sensitive. In addition, the United States would regain parity with the EU, which has just negotiated a similar free trade deal with Korea.\textsuperscript{27}

The free trade agreement with Panama has less to offer US agriculture, but it has some political significance in the region. The agreement with Colombia is more important because it has the potential to expand US farm exports and create a more level playing field with Brazil and Argentina, countries that benefit from trade links between Colombia and Mercosur—an economic and political agreement among Argentina, Brazil, Paraguay, and Uruguay. A recent agreement between Canada and Colombia highlights the dangers of falling behind in the competition for markets. Canadian wheat now has a significant edge in the Colombian market.

In the long run, the emerging trade agreement structure in the Asia-Pacific may be more significant. For years, the only viable agreements there were the Association of Southeast Asian Nations (ASEAN) Free Trade Area and the Closer Economic Relations agreement between Australia and New Zealand. The Asia Pacific Economic Cooperation approach of coordinated unilateral trade liberalization proved largely ineffective. Now, bilateral trade agreements litter the trade landscape in the Asia-Pacific region. Singapore, for example, moved rapidly to ensure access to all its major markets, including the United States. Even Japan, long an opponent of bilateral and regional agreements, has now forged ahead with several of them. The ASEAN countries have signed bilateral agreements with China, India, Japan, Korea, Australia, and New Zealand to open up markets. China and India have also been negotiating a free trade area, and India has entered into a free trade agreement with Japan. The EU is talking to India,
though progress has been difficult. But most Asian countries have in effect given notice that they are willing to grant access on a reciprocal basis to other countries. The United States could be left with open access to Singapore and Australia, but faced with trade discrimination in Japan, China, Indonesia, Thailand, Malaysia, India, and most other countries in the region.

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The US reaction to this risk has been swift but curiously silent. Four countries (New Zealand, Singapore, Chile, and Brunei) formed a trade pact in May 2006 known as the P-4. In September 2008, the United States indicated a willingness to join this coalition, leading to the inclusion of Australia, Peru, and Vietnam in talks on an expanded free trade agreement. The initiative was renamed the Trans-Pacific Partnership (TPP), and the aim was to eliminate all tariffs within twelve years, with 90 percent of trade free from the first year. The significance of this move is not in the trade with the countries concerned (Singapore, Chile, and Australia already have free trade agreements with the United States), but in its value as a trade partnership that other countries could join. Malaysia, for instance, is about to start negotiations with the United States within the TPP framework. The Philippines and possibly Indonesia could follow. At that stage, trade relations with Southeast Asia would have taken a big step forward. It would limit the negative impact that might otherwise come from an ASEAN-based agreement with Korea, Japan, Taiwan, and China that would exclude Canada and the United States.

Direct talks about free trade with China and India are further down the road, but the possible gains and losses from such a deal for US agricultural exports are likely to be substantial. The Doha Round promises tariff cuts, and hence reduces the benefits from preferential trade agreements, but tariff-free access into large parts of the Asian market would be of direct interest to US exporters of grains, meats, and fruits.

The Trade Title in the Farm Bill

Title III of the 2008 Farm Bill deals with trade and reauthorizes, with modifications, the food aid and export credit programs from previous legislation. The questions for the 2012 Farm Bill relate to budgetary decisions and further changes to the workings of the programs.

Reauthorization of overseas food aid is a staple in Farm Bills. The aid is popular with farm groups, as it moves produce off the market, but in global terms the nature of food aid is changing. The program’s “surplus disposal” function is being replaced by a combination of targeted rapid response to emergencies and capacity building to allow developing countries to use food aid dollars in ways that are most appropriate. Unfortunately, this may weaken the position of the prodevelopment groups in Congress by delinking aid from commodity disposal.

The Doha Round is currently negotiating these issues. The EU insisted that all export-subsidy components of food aid be eliminated if it were to give up its own (more direct) export subsidies. Two problems still stand in the way of congressional acceptance of the Doha Round proposals on food aid. One concerns “monetization,” the passing of commodity aid through nongovernmental organizations such as charities that can then sell the food to fund their activities. There is naturally opposition from this community to a cessation of this process. The other concern is that giving food aid in the form of cash to buy food from the most convenient source will favor local procurement over US exports. The 2008 Farm Bill includes a pilot plan for local procurement, which should be considered and expanded when writing the 2012 Farm Bill.
The Farm Bill also funds promotion of US agricultural exports. The two main instruments are the Market Access Program and the Export Credit Guarantee Program, known as GSM-102, both run by the US Department of Agriculture. The Market Access Program gives grants to producer groups to defray the costs of trade fairs and other promotional activities. The GSM-102 helps finance trade in countries that lack private financing. In addition, there is a Foreign Market Development Program, which works through cooperating institutions in other countries, and a Dairy Export Incentive Program, which enables firms to move dairy products into export markets. Each of these programs has congressional support and has been helpful to the industry. A case can be made that agricultural exports deserve some government assistance because small producers face high costs of collecting information on foreign markets, but there is concern that these marketing grants are allocated to producer groups that could finance their own market research and that political considerations are not entirely absent from the distribution of funds.

**Other Policy Linkages to Trade**

The Farm Bill is not the only legislation on farm policy and certainly not the only way that trade policy and farm policy interact. One aspect of trade policy that has been of increasing interest to the US farm sector is the commercial relationship with Cuba. Political relations with Cuba seem to be maturing, and arguments can be made for further developing trade and tourism. The Cuban agricultural sector is relatively backward and cannot produce the range of goods that a freer society demands. Food exports have been allowed into Cuba from the United States since 2000, under the relaxation of trade sanctions. So agricultural interests in Congress have supported legislation to open export markets for farm products and increase opportunities for tourism in Cuba. Despite political concerns, it seems likely that some expansion of trade with Cuba will take place in the next few years. Of course, Cuba may eventually have to be granted better access to the US market for its own farm produce, such as sugar and tropical fruits, and some modification of US sugar policy may be required.

Another aspect of domestic policy closely linked to agricultural trade concerns food safety. In a relatively open global food market, with increasing amounts of food products being sourced from abroad, health and safety issues have become major components of trade policy. The current legislative attempt to overhaul food-safety procedures and practices is being closely watched by farm groups and the food industry. The additional inspection and certification of imported foods has a cost, ultimately borne by consumers, and can unduly hinder trade, particularly where traceability is required. Care needs to be taken that procedures to preserve health and safety do not make imported products less competitive in domestic markets.

In the Uruguay Round, the United States and other exporters of farm products successfully insisted on risk assessments in setting food-safety standards. The SPS agreement has had significant benefits for US exports over the past fifteen years, but the execution of trade policy requires that reciprocity be maintained. The United States has had several disagreements with other countries on the operation of its own health and safety regulations, often with respect to poultry. A recent dispute with China over imports of chicken into the United States illustrates the significance of maintaining a credible policy on imports to keep access to export markets. China imports $400 million of chicken products from the United States, often parts that have no market here.

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China, including Hong Kong, also exports chicken, but US law requires inspection of food-safety conditions in plants from which imports might come. Appropriations were blocked for the Food Safety Inspection Service to make inspections in China. China initiated a WTO complaint, and a panel has found in its favor. Putting appropriate regulations in place and then letting trade find its own level is the essence of a rules-based trade system.

Agricultural trade issues have soured trade relations with Russia (not yet a WTO member) for some years. Again, poultry SPS measures are often at the center of these disputes. After Russia banned imports from the United States on the grounds that the chlorine treatment typically used in US plants was not consistent with Russian safety codes, the two governments finally reached an agreement in June. Exports of poultry have resumed recently, but trade issues should not be resolved in arbitrary high-level meetings.

In a less complex world, customs authorities would be responsible to keep imports of food and agricultural goods free from pathogens and other alien hitchhikers that threaten the health and safety of humans, livestock, and plants. Trade authorities use a classification system to examine the product itself, which enables health and safety rules to be applied. But increased concern about how a product is produced has complicated the task at the border. These concerns range from environmental sustainability and animal welfare to labor conditions and carbon footprints. Trade rules are having difficulty keeping up with demands that “process attributes” be a reason to restrict trade.

The division between risk-related regulations and subjective quality attributes underpins the current trade system. Governments take responsibility for the former, and the private sector uses the latter in competing for the consumer dollar. The growth of private standards in international trade shows that firms do indeed act on that principle. But the line gets blurred when governments allow domestic pressures to push them into supporting the views of vocal minority groups, often to the disadvantage of most consumers.

One of the most important legislative areas that impinge on farm policy is energy policy. The rapid growth of ethanol has provided a new outlet for corn, and over one-third of the US corn crop is now used for ethanol. The biofuels policy in the United States has already raised several trade issues in addition to the questions surrounding the extent to which it contributes to environmental goals. Whatever the merits of subsidizing ethanol, the impact on farm commodity trade is undeniable. The sweetener market is driven by the use of sugar for ethanol in Brazil, and the oilseed market in Europe is deeply influenced by the widespread use of rapeseed for biodiesel. Palm-oil markets in Asia are also linked to biodiesel demand. Until a nonfood feedstock for bioenergy can be commercialized (seemingly always just around the corner), the food-versus-fuel debate will continue. In turn, this brings the question of food security for developing countries into sharper focus.

**Conclusion**

Anyone writing about trade and trade policy must resist the temptation to promote the expansion of trade into an aim in itself. Trade is the consequence of good domestic policy, and that policy involves deciding which industries and sectors to support and which to allow to sink or swim on their competitive abilities. So the underlying question for agricultural policy is how much support to give to the farm sector (if any) and how to distribute that support in a way that achieves the desired objectives. This basic economic approach to agricultural trade policy is complicated by incomplete information, and policymakers are of course influenced by electoral considerations. But over time one can hope that better domestic decisions will help the agricultural trade system fulfill its role in providing healthy, low-cost food to all parts of the earth. US agriculture has a vital role to play, and removing some of the obstacles to an open global marketplace is always a worthy objective.

The case for more consistency between domestic and trade policy in agriculture is not difficult to
make. The United States gains if it can sell its products abroad, but it also gains if consumers can count on supplies of products in which the United States is not as competitive. Producers of those commodities, and their supporters in Congress, obviously have an interest in protecting them from falling incomes. But to the extent that such protection distorts trade, it hurts the sectors that are competitive (as well as the consumers). The United States is quick to point this out to other countries but slow to apply the same reasoning at home. The support of the sugar sector is perhaps the most obvious example of this, but dairy and cotton producers also have been granted protection over the years at the expense of a market-oriented policy.

The 2012 Farm Bill could be deliberately crafted to avoid any conflict with future WTO obligations, but this may be difficult to accomplish.

The prospects for further bilateral trade deals over the next few years are relatively favorable, but mainly as a reaction to the activities of other countries. The United States will be obliged to keep up with its competitors, particularly in Asian markets, as a supplier of agricultural and food products. This in turn will require some compromises in the case of import-competing products so as to rationalize the location of production. The United States will remain the major player in the Asia-Pacific food market, but it will need to avoid actions that cause trade partners to look for alternate sources. Swift passage of the three pending free trade agreements would send a strong signal to governments that the United States has a trade agenda and can move forward in its own interests.

The future of multilateral trade deals looks cloudier at present. But negotiations in the Doha Round could be wrapped up quickly if governments chose to do so. Congressional approval would hinge on whether market access gains in emerging markets for agriculture and nonagricultural goods and services were deemed substantial. But even if not much more is forthcoming in that direction, the Doha Round should be concluded. US “concessions” in farm policy, particularly the restriction on trade-distorting support, are consistent with sound farm policy, and tight constraints on the farm policies of others have been a major goal for the United States for decades. It is often said that “no deal is better than a bad deal,” but the deal on the table is by no means bad. And it is unlikely that a better deal will be on the table in a year or two.

The instruments used in the Farm Bill to provide a safety net are naturally of interest to other countries. WTO compliance is an important constraint on the types of policies available, but the WTO rules are less intrusive than sometimes portrayed. The URAA is an accepted discipline on the behavior of governments. It is not a mechanism for the international approval of a policy. It is not the case, as sometimes suggested, that direct payments are the only WTO-approved farm policy instrument. All green-box policies are exempted from reduction. Nor is it the case that others would frown on a reduction in green-box payments; the level of such payments is left up to governments. Indeed, the category of support known as direct payments is widely considered to have some output-stimulating effects, even if they are smaller than comparable expenditures on price supports. Reductions in those payments, if funds were shifted to other trade-neutral policies including crop insurance and environmental stewardship policies, would not violate WTO rules.

The timing of the Farm Bill and the Doha Round is of some consequence. There is a possibility that the round might not be concluded and ratified before 2013, by which time a new Farm Bill could already be in place. If this is the case, the bill should include some form of “circuit breaker” provision so it does not obligate the United States to future program payments that exceed any agreed limits.
The 2012 Farm Bill could be deliberately crafted to avoid any conflict with future WTO obligations, but this may be difficult to accomplish. More probably, the bill will take into account the US position expressed in Geneva, making it difficult if not impossible for the United States to agree later to further cuts in domestic support, modifications to the cotton program, or changes in food aid programs. This all adds a sense of urgency, from a trade and domestic policy perspective, to the need to complete the Doha Round before the Farm Bill is passed to avoid debilitating conflicts.

So what constitutes a sound agricultural trade policy for the United States that is consistent with domestic farm policy objectives? The first order of business is to lend strong support to the ratification of the bilateral trade agreements with Korea, Colombia, and Panama. Agriculture clearly stands to gain, and holding out for further concessions (for instance, from Korea on beef imports) risks losing the chance to secure markets in those countries. No significant threat is posed by agricultural imports from these countries, so there should be no conflict with domestic policy aims. Ratifying these three agreements would give a sign of credibility to an emerging trade strategy.

The second step is to build on the momentum from the ratification of the bilateral agreements by showing more support for the Doha Round in 2011, principally by being more realistic about the “exchange rates” between additional market access in developing country markets and constraints on domestic support, and between market access gains in agricultural and nonagricultural markets and services. This does not imply abandoning negotiating objectives, but it may mean rethinking the tradeoff between immediate gains and longer-term benefits. Keeping emerging countries on the path of trade openness may be a bigger prize than negotiating a few deals for particular sectors.

The third step, following completion of the bilateral agreements and the Doha Round, is to reestablish credible US leadership in trade matters. This must be built on a multipolar trade system and will require a concerted diplomatic effort. But the agricultural sector has as much to gain as any part of the economy from a trade system based on open markets and accepted disciplines. A priority at the multilateral level is to develop a stable and responsive agricultural and food trade system that ensures food security without the distortions associated with promoting high-cost production or unhelpful market interventions. The United States should be in the lead on this construction.

The most obvious impediments to trade talks that emerge from farm policy involve the reluctance to reform sugar policy and to make the changes to cotton legislation required by the WTO ruling. Other aspects of policy, from the implementation of the COOL legislation to the tensions over ethanol subsidies, also contribute to trade problems and weaken the US position in negotiations. It would be particularly helpful to ensure that US policy is crafted to be consistent with obligations arising from trade agreements. Too often this is treated as a legal sideshow (“we have our lawyers and they have theirs”) rather than one of credibility and leadership. US actions in agricultural policy have always had an influence on the domestic and trade policies of others: the issue is whether such influence is positive or negative.

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Notes

3. In addition, the trade environment is strongly influenced by macroeconomic conditions at home and abroad, including growth and exchange-rate changes, but these issues are not discussed in this paper.
5. WTO, Uruguay Round: The Legal Texts (Geneva, Switzerland, 1996).
6. In addition, agricultural subsidies are constrained by the URRAA, as described below.
7. Policies that subsidize the use of inputs are also included as domestic support. Border measures are separately constrained, though in practice they work in conjunction with domestic-support policy instruments.
9. Most developing countries lack the resources to make payments to their farm sectors. The constraints largely operate to put limits on the use of administered price levels backed by high tariffs on imports.
10. A major part of the green-box policies as notified by the United States is attributable to the food-stamp program (now known as the Supplemental Nutrition Assistance Program), accounting for $39.3 billion of the amount notified to the WTO. Purchases using food stamps are not limited to domestic food products, so any trade impact is benign from the viewpoint of competitors.
11. The qualification “as currently interpreted” is needed to account for the possibility that the TAMS case (see below) could find that the classification of domestic-support policies used in US notifications has been at fault.
12. Canada chose to exclude itself in part from the full provisions of the North American agricultural market, in particular with regards to sugar, poultry, and dairy products. Nevertheless, for cereals and oilseeds, beef and pork, and fruits and vegetables the degree of integration across the northern border is high—but again, not without tension.

14. In the banana dispute, the EU modified its import policy to avoid some of the discriminatory licensing procedures that had disadvantaged the US firm Chiquita; after several iterations, the United States eventually accepted the revised policy. In the beef-hormone case, the EU still has not made significant changes to its policy banning imported hormone-treated beef (hormones are not allowed within the EU for cattle raising), but a deal was concluded that brought the case to a halt.
16. The EU was found at fault for making it difficult for non-EU groups to register for GI protection. The EU subsequently changed its approval process, and foreign producers can register more easily for GI protection. The GMO case was aimed at the approval process for biotech products within the EU. Once again, the EU was found at fault and undertook to speed up the operation of EU rules.
17. Daniel A. Sumner, Boxed In: Conflicts between US Farm Policies and WTO Obligations (Washington, DC: Cato Institute, 2005); and Daniel A. Sumner, “WTO Compliance and US Farm Programs,” in The 2007 Farm Bill and Beyond.
18. In 2003, the “peace clause” (Article 13 of the URRAA) expired, opening up the possibility of challenging farm subsidies under the Agreement on Subsidies and Countervailing Measures.
19. A temporary settlement of the dispute was reached when the United States agreed to pay $147 million to Brazil to help its cotton farmers. A conclusion to the Doha Round is expected to contain benefits to Brazil that will eventually close the case.
20. The 2008 Farm Bill expanded the scope for COOL (Title XI, Livestock). It now covers meats, fruits and vegetables, nuts, and seafood.
22. The OTDS is the sum of AMS, blue-box, and de minimis support. See David Blandford and David Orden, “United States,” in WTO Disciplines on Agricultural Support: Seeking a Fair Basis for Trade. The AMS consists of market price support and payments related to price of production; blue-box payments are constrained by limits on production; and the de minimis support is that which does not exceed 2.5 percent of the value of the product (product-specific de minimis) or 2.5 percent of the total value of agricultural production (non–product specific de minimis). Under the Doha agreement (as envisaged in the draft modalities from December 2008), the AMS and the blue box would be separately constrained, both in total and by product. See WTO,

23. David Blandford and David Orden, “United States.”

24. WTO, “Revised Draft Modalities for Agriculture.”


26. See Yoshihisa Godo and Daisuke Takahashi, “Japan,” in WTO Disciplines on Agricultural Support: Seeking a Fair Basis for Trade. The Doha Round will not constrain developing countries to the same extent. Most of them claimed zero base AMS in the Uruguay Round, implying that they were not keeping administered prices high relative to world prices and not paying subsidies related to production or price. This relieved them of the obligation to cut domestic support, but they do have the ability to expand trade-distorting support up to de minimis levels. In the case of India, the effective limit on such support would be 14 percent of the value of production (Munisamy Gopinath, “India,” in WTO Disciplines on Agricultural Support: Seeking a Fair Basis for Trade). For China, the limit would be 25 percent of production value (as negotiated in its WTO accession arrangements) (Fuzhi Cheng, “China,” in WTO Disciplines on Agricultural Support: Seeking a Fair Basis for Trade).

27. The United States would also hope to keep level with Australia, which is in discussions with Korea on a free trade area. As a competitive exporter of beef, Australia stands to pick up market share if the US-Korea agreement is not ratified.

28. Japan is reportedly exploring the possibility of an Asian free trade agreement that does include the United States.

29. Political observers will recall that this title was left off the version initially sent to President George W. Bush for his signature. A complete version had to be resubmitted later to correct the omission.


31. The United States agreed with the EU position that the implicit subsidies given to state trading enterprises should also be eliminated, and this is included in the December 2008 draft modalities referred to above. To date there has been no agreement on an additional step favored by the United States to remove the monopoly position of such state-trading exporters (such as the Canadian Wheat Board).

32. One interaction is through the impact of US policy on the actions of other countries. Domestic farm policy decisions that appear to ignore trade obligations and be inconsistent with stated trade policy objectives weaken the credibility of US leadership by example.


34. In most cases of market opening, the pace is controlled by the importing country’s government. In the case of Cuba, however, the legislative changes needed to increase trade are under the control of the exporting country (the United States). If enacted, the Travel Restriction Reform and Export Enhancement Act (HR 4645) would relax some of the financial restrictions currently in force.

Stuck in the Mud
How Farm Policy Undermines Free Trade
by Tim Josling

A quarter to a third of total farm receipts are obtained from overseas sales, with agricultural exports reaching $97 billion in 2009. The trade title of the Farm Bill deals with some matters of trade policy but is limited to unilateral actions such as food aid and export credits. This paper examines how to make trade policy and farm policy more coherent. Some of the highlights include:

1) Trade agreements set parameters for market expansion: With the development of the World Trade Organization (WTO), farm and food exporters in the United States have significantly benefited from many improvements, including provisions on domestic subsidy programs. Domestic subsidy programs have reduced trade-distorting support in a number of developed countries, most notably countries in the European Union and Japan.

2) The Dispute Settlement Understanding has been actively used by and against the United States: The United States initiated 22 percent of the agricultural complaints brought to the WTO between 1995 and 2008. The United States has challenged the European Union, Japan, Korea, and Canada on various agricultural issues. Brazil has challenged the United States on cotton, Canada on trade-distorting support, and Canada and Mexico on country-of-origin labeling. The emergence of US ethanol and biodiesel policies could generate new trade conflicts in the future, as they affect global commodity prices.

3) Bilateral trade agreements have benefited US agriculture and will continue to do so: Of the three bilateral agreements under consideration, Korea and Colombia are broadly supported by the US agricultural sector. The Korea agreement would provide access to the Korean beef market and duty-free treatment for most other products. The Colombia agreement has the potential to expand US farm exports and create a level playing field with Brazil and Argentina. Ratification of these agreements would give a sign of credibility to an emerging trade strategy.

4) Title III of the Farm Bill should modify food aid and export credit programs: “Surplus disposal” should be replaced by a combination of targeted rapid response to emergencies and allowing developing countries to determine the appropriate use of food aid dollars. The 2008 Farm Bill includes a system for local procurement of food aid, which should be expanded in the 2012 Farm Bill.

The most obvious impediment to trade talks from a farm policy standpoint is the reluctance to reform sugar and cotton policy as required by the WTO. This reluctance weakens the US position in trade negotiations. Legislation should ensure that US policy is consistent with obligations in trade agreements.