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WTO Doha Round: Implications for U.S. Agriculture

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Summary

The Doha Round of multilateral trade negotiations, launched in November 2001, has been at an impasse since 2009 and presently shows no signs of restarting, despite an interim agreement reached at the December 2013 Bali Ministerial.

The goal of the Doha Round's agriculture negotiations is to make progress simultaneously across the three pillars of the World Trade Organization's (WTO's) 1994 Agricultural Agreement—domestic support, market access, and export competition—by building on the specific terms and conditions established during the previous Uruguay Round of negotiations. Negotiators have attempted to maintain a balance across the three pillars by simultaneously achieving concessions from exporters and importers alike in the form of tighter spending limits on trade-distorting domestic support; elimination of export subsidies and new disciplines on other forms of export competition; and expansion of market access by lowering tariffs, increasing quota commitments, and limiting the use of import safeguards and other trade barriers. However, as a concession to poorer WTO member countries, the degree of new conditions is to be less stringent for developing than for developed nations.

Substantial progress had been made by 2008 in narrowing differences in Doha Round negotiating positions. As a result, a "modalities framework" (i.e., specific formulas and timetables for reducing trade-distorting farm support, tariffs, and export subsidies, and for opening import markets) was released in December 2008, in an attempt to lock in the status of negotiated concessions, while adding detail to outstanding issues as a basis for further, more specific talks. By 2009, outstanding differences had been reduced to a short list of contentious issues, including designating additional products as sensitive coupled with establishing new tariff quotas, designating developing country products as special and thus exempt from tariff reductions, and allowing developing countries to raise tariffs temporarily to deal with import surges or price declines. However, these differences proved sufficient to deadlock the negotiations.

From the U.S. perspective, a successful Doha agreement (under the current negotiating text) would significantly lower allowable spending limits for certain types of U.S. domestic support and eliminate export subsidies, while allowing U.S. agricultural products wider access to foreign markets. Any assessment of the potential effect of the new domestic support programs authorized by the 2014 farm bill (P.L. 113-79) is very preliminary at this time. Many of the new programs have yet to be fully implemented; thus producer participation is uncertain and program outlays hinge on future market conditions. For example, under a relatively high price environment, as existed during the 2010-2013 period, U.S. program outlays could easily fall within proposed Doha Round limits with no or only modest changes. However, if market prices were to decline substantially below support levels for an extended period, then outlays could escalate rapidly and threaten to exceed the proposed spending limits.

A concern of U.S. trade negotiators, Congress, and commodity groups is whether the draft modalities include too many exceptions for foreign importers (in terms of their ability to restrict imports) to ensure that an adequate balance will be achieved between U.S. domestic policy concessions and potential U.S. export gains. This report reviews the current status of agricultural negotiations and the modalities framework for domestic support, market access, and export subsidies, as well as the potential implications of a Doha Round agreement for U.S. agriculture.

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Introduction

As part of the Uruguay Round of multilateral trade negotiations that successfully culminated in the establishment of the World Trade Organization (WTO) in 1994, WTO members agreed to initiate new negotiations for continuing the agricultural trade reform process before the end of the implementation period (i.e., by the end of 1999).[1] At a November 2001 Ministerial Conference in Doha, Qatar, the new round of multilateral negotiations—referred to as the Doha Development Agenda (DDA) or simply the Doha Round—was initiated.[2] The Doha Round's work program covers 20 areas of trade, which can be summarized into four broad categories of trade reform: agriculture, non-agriculture market access (NAMA), rules, and services.[3] By early 2008, substantial progress had been made in the Doha Round negotiations in narrowing or resolving differences in negotiating positions. However, talks have been deadlocked (and moribund) since 2009, when a WTO Ministerial Conference in Geneva failed to resolve differences.

An important goal of the Doha Round negotiations is to liberalize trade in goods and services, including agricultural products. With respect to agriculture, new disciplines are being negotiated in three broad areas—domestic agricultural support programs, export competition, and market access—known as the three pillars of the WTO Agreement on Agriculture, negotiated in 1994. The Doha Round negotiations have attempted to maintain a balance across the three pillars by simultaneously achieving concessions from exporters and importers alike in the form of tighter spending limits on trade-distorting domestic support; elimination of export subsidies and new disciplines on forms of export competition; and expansion of market access by lowering tariffs, increasing quota commitments, and limiting the use of import safeguards and other trade barriers.

The concessions already tabled as part of ongoing Doha Round negotiations are substantial and would likely have important implications for U.S. farm policy—they would significantly lower allowable spending limits for certain types of U.S. domestic support and eliminate export subsidies, while allowing U.S. agricultural products wider access to foreign markets.

This report focuses on the current set of Doha Round proposals—referred to as the draft "modalities" (i.e., specific formulas and timetables for reducing trade-distorting farm support, tariffs, and export subsidies, and for opening import markets)—that relate to agriculture. The draft modalities represent the general terms of agreement that would likely be part of a final agreement if such a resolution were to occur. This report briefly considers what they might mean for U.S. domestic support programs in terms of compliance with proposed spending limits.[4] The final section of this report briefly summarizes the status of Doha Round negotiations and activities in 2014.

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[1] These talks began in early 2000 under the original mandate of Article 20 of the Agreement on Agriculture; for more information see http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm.

[2] WTO, The Doha Round, http://www.wto.org/english/tratop_e/dda_e/dda_e.htm.

[3] See CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda*.

[4] "Revised Draft Modalities for Agriculture," TN/AG/W/4/Rev.4, Committee on Agriculture, WTO, December 6, 2008. For a lay overview of the modalities, see "Unofficial Guide to the Revised Draft Modalities—Agriculture," Information and Media Relations Division, WTO, corrected December 9, 2008.

Domestic Support

The WTO categorizes domestic support programs by the degree to which they distort price formation in agricultural markets. A traffic light analogy is used to identify different limits and restrictions for the various program categories based on the severity of distortion.[5] In particular, WTO member countries have agreed to specific spending limits on the most highly market-distorting domestic programs—such programs are counted under the aggregate measure of support (AMS) and placed in the amber box. Member countries are allowed the ability to intervene in national agricultural policy by shifting their support to certain categories that are exempt from restrictions such as the green box. In addition, certain market-distorting programs are exempted from spending disciplines under special circumstances—the blue box contains market-distorting but production-limiting programs, while the de minimis exclusions (one at the individual product level, the other at the aggregate level) comprise market-distorting policies that are deemed benign because spending outlays are small relative to a country's overall agricultural sector.

In general, WTO trade negotiations have emphasized tightening spending limits on the most highly market-distorting domestic programs, while capping and reducing spending under the blue box and de minimis exclusions. Green box spending is presently unlimited and would remain so under the current negotiation proposals contained in the draft modalities.

Tighter Spending Limits in Aggregate, and for Specific Products

The current draft modalities propose cutting trade distorting domestic support simultaneously across three levels (see **Table 1** for details).

- First, spending limits for each category—amber box, blue box, and the two de minimis exclusions—would be reduced substantially.
- Second, within each of these categories additional constraints would apply to support for any individual product (i.e., product-specific limits).
- Third, a global spending limit—referred to as the overall trade-distorting domestic support (OTDS)—encompassing the four categories of amber box, blue box, and the two de minimis exclusions would be established at a level substantially smaller than the sum of their individual limits.
- In addition, the qualifications needed for exemption status in the green box have been tightened.

Under a successful Doha Round agreement, the United States would have to address any inconsistencies between its WTO commitments and current U.S. farm policy authorized by the 2014 farm bill (P.L. 113-79).

[5] For more information on the AMS and AMS-exempt programs see CRS Report RL32916, *Agriculture in the WTO: Policy Commitments Made Under the Agreement on Agriculture*.

Table 1. U.S. Domestic Support: Average Annual Outlays Compared with WTO Commitments—Current and Proposed

	Avg. Annual Outlays[a] ($US Billions)			Current WTO Annual Limits		Doha Round Proposed Annual Limits[b]	
Category	**1995-2005**	**2006-2011**	**2012[c]**	**Status**	**$US billion**	**Status**	**$US billion**
Overall trade-distorting support (OTDS)	$16.1	$11.9	$12.1	Unbound (due to blue box)	$48.2[d]	Bound (cut of 70%)	$14.5
Amber box (bound total AMS)	$10.7	$5.6	$6.9	U.S. total AMS limit[e]	$19.1	Bound (cut of 60%)	$7.6
Amber box (bound per-product AMS)	Varies	Varies	Varies	No per-product limit	—	Capped: avg. support of 1995-2000	Varies[f]
Blue box (total)	$0.6	$0.0	$0.0	Unbound	—	Bound: 2.5% of TVP[g]	$4.9
Blue box (product specific)	—	—	—	None	—	Bound: 110% or 120% of 2002-07 avg.	—
De minimis: non-product specific	$4.4	$5.9	$0.3	Bound: 5% of TVP	$9.7	Bound: 2.5% of TVP[e]	$4.9
De minimis: product specific	$0.3	$0.4	$5.0	Bound: 5% of SCVP	Varies	Bound: 2.5% of TVP[f]	$4.9
Green box	$55.6	$79.5	$116.3	Unbound	—	Unbound but tighter qualifying criteria	—

Source: "Revised Draft Modalities for Agriculture," TN/AG/W/4/ Rev.4, WTO, Dec. 6, 2008. U.S. outlays are from official U.S. notifications of domestic support outlays as submitted to the WTO.

Definitions:

AMS—aggregate measure of (trade-distorting domestic) support defined in Agreement on Agriculture.
OTDS—overall trade-distorting domestic support = amber box + blue box + de minimis exclusions.
SCVP—total value of agricultural production for a specific commodity.
TVP—total value of agricultural production for all commodities.

a. Data are assembled by CRS from official U.S. notifications of domestic support.

b. These figures are specific to the United States. The level and timing of proposed reductions in domestic support commitments vary across both category and WTO member status (e.g., developed versus developing country). See source for more information.

c. In 2012, the United States changed the notification status of federal crop insurance support. Prior to 2012, all federal crop insurance premiums were notified as non-commodity specific and were thus excluded from the AMS under the large non-commodity specific de minimis exemption. In 2012, federal crop insurance premium subsidies of $7 billion were notified as commodity-specific outlays. As a result, only a portion of the premium subsidies were excluded under the commodity-specific de minimis exclusion.

d. Assumes a value of $9.7 billion each for the two de minimus exemptions and the blue box, plus the $19.1 billion amber box limit.

e. Each country has a separate Bound identified in its country schedule.

f. Per-product outlays and bounds vary by product, but sum to TVP. U.S. calculations apply the proportionate average product-specific AMS from the 1995-2004 period to the total AMS for 1995-2000.

g. Based on the average annual TVP for the 1995-2000 period or $194.1 billion; (2.5% of TVP = $4.85 billion).

U.S., Japan, and EU Agree on Tighter AMS Bounds

The United States, European Union (EU) and Japan accounted for 85% of global domestic support outlays during the 1995-2010 period, according to WTO notifications data. To achieve any agreement imposing new domestic support limits, it is imperative that these three nations be in agreement. As a result, much of the early discussion on overall trade-distorting support (OTDS) and amber box limits involved finding a mutual balance in reduction commitments for these three nations.

As part of the July 2008 negotiations, the United States accepted a proposed reduction in its annual OTDS to $14.5 billion—compared with the current bound of $48.2 billion and conditional upon other countries expanding their offers of market access for U.S. farm exports. The U.S. OTDS limit of $14.5 billion is substantially lower than the sum of $22.3 billion for the proposed limits for U.S. amber box of $7.6 billion, blue box of $4.9 billion, and the two de minimis exclusions (product- and non-product) of $4.9 billion each. Thus, while U.S. program outlays under any one of these latter categories may achieve its specific box limit, the cumulative total (i.e., the OTDS) must be well below the sum of their separate totals. In other words, the OTDS limit represents a serious constraint (as intended) on potential domestic support spending. The EU and Japan accepted similar conditions.[6]

As with the OTDS limits, the $7.6 billion limit for U.S. amber box total annual outlays was mutually negotiated by the United States and represents a 60% reduction from the current $19.1 billion ceiling. The EU and Japan accepted comparable reductions in their amber box spending.[7] The spending limits for the blue box and de minimis exclusions for all developed countries would be halved—that is, lowered from 5% of the value of agricultural production to a 2.5% share. In addition, the data years used in the calculation would be frozen to the average value of production for the 1995-2000 period, thus producing a blue box limit of $4.85 billion for the United States. Similarly, the proposed limit on the commodity-specific de minimis exclusion would be based on 2.5% of the product-specific value of production for the 1995-2000 period, but using the proportionate average product-specific AMS from the 1995-2004 period.[8]

Proposed OTDS and Total Amber Box Limits

Based on the historical period averages presented in the three columns of **Table 1** under the Sub-title "Average Outlays"—1995-2005, 2006-2011, and 2012—it appears that U.S. program outlays since 2006 would have complied with the proposed limits for both OTDS and the overall amber box limit. However, the most recent U.S. notifications are for the year 2012, which still represents 2008 farm bill programs, many of which were repealed by the 2014 farm bill. Many of the new programs authorized by the 2014 farm bill have yet to be fully implemented, and participation levels are uncertain.[9] In addition, the potential degree of changes to U.S. farm policy needed to

[6] The U.S. proposal represents a 70% reduction in its potential OTDS (i.e., the sum of amber and blue boxes and the two de minimis exclusions). Both the EU and Japan agreed to slightly larger reductions in their OTDS limit—the EU accepted a proposed 80% reduction from 110.3 billion euros to 22.06 billion; while Japan's potential OTDS would be reduced by 75%.

[7] The EU would accept a 70% reduction in its amber box limit (from 67.16 billion euros to 20.1 billion), while Japan accepted a proposed 60% cut from its current 3,972.9 billion yen limit.

[8] For details on U.S. product-specific blue box limits, see Annex A of the "Revised Draft Modalities for Agriculture," TN/AG/W/4/Rev.4, WTO, December 6, 2008.

[9] CRS Report R43448, *Farm Commodity Provisions in the 2014 Farm Bill (P.L. 113-79)* and CRS Report R43494, (continued...)

comply with a Doha Round agreement under the terms described in **Table 1** would likely hinge on market conditions.

Under a relatively high price environment as existed during the 2010-2013 period, U.S. program outlays could easily fall within the proposed limits with no or only modest changes. However, if market prices were to decline substantially below support levels for an extended period, then program outlays could escalate rapidly and threaten to exceed spending limits for the OTDS, amber box, and de minimis exclusions.[10] Some policy analysts also have expressed concern that price guarantees set by statute under the new Price Loss Coverage (PLC) program and used as minimums in the Agricultural Risk Coverage (ARC) program could lead to larger-than-expected outlays if market prices were to weaken substantially in the future.[11] For example, based on market conditions as of May 2014, USDA estimated combined PLC and ARC outlays at $10.1 billion in crop year 2015 and $10.9 billion in 2016, compared with the proposed lower U.S. amber box ceiling of $7.6 billion.[12]

The repeal of the dairy product price support and the Milk Income Loss Contract (MILC) programs by the 2014 farm bill freed up substantial space for new program spending under both the current and proposed limits, and should make it easier to comply with a smaller amber box ceiling. During the 2009-2012 period, the dairy product price support and MILC programs accounted for $3.3 billion of the $6.7 billion in annual U.S. product-specific amber box notifications. In contrast, the U.S. sugar price support program was left unchanged by the 2014 farm bill and continues to account for about $1.4 billion in annual amber box outlays.

Proposed Product-Specific Amber Box Limits

The proposed product-specific amber box limits could result in some unanticipated difficulties for certain crops under certain situations—particularly when a large harvest combines with low prices to generate large combined payments under marketing loan benefits, income support programs, and federal crop insurance premium subsidies.

Proposed De Minimis Exclusion Limits

As seen from the data for 2012 in **Table 1**, non-commodity-specific de minimis outlays of $0.3 billion would easily fall below the proposed lower limit of $4.85 billion under the Doha draft modalities. This category of U.S. program outlays had seen considerable growth in recent years, driven largely by growth in U.S. crop insurance premium subsidies, which accounted for $4.3 billion of the $6.0 billion in non-commodity-specific de minimis outlays during 2006-2011. However, in 2012 the United States changed the notification status of federal crop insurance

(...continued)

Crop Insurance Provisions in the 2014 Farm Bill (P.L. 113-79).

[10] As implied by the Congressional Budget Office's (CBO's) March 2015 Baseline for Farm Programs, released March 9, 2015; at http://www.cbo.gov/sites/default/files/cbofiles/attachments/44202-2015-03-USDA.pdf.

[11] For example, see V. H. Smith, *The 2014 Agricultural Act: U.S. Farm Policy in the Context of the 1994 Marrakesh Agreement and the Doha Round*, Issue Paper No. 52, International Center for Trade and Sustainable Development (ICTSD), Geneva, Switzerland, June 2014; or Carl Zulauf, "Market Distortion and Farm Program Design: A Case Examination of the Proposed Farm Price Support Programs," *farmdoc daily*, June 7, 2013.

[12] "Final Rule: Agriculture Risk Coverage and Price Loss Coverage Programs," *Federal Register*, vol. 79, no. 187, September 26, 2014.

support. Prior to 2012, all federal crop insurance premiums were notified as non-commodity-specific and were thus excluded from the AMS under the large non-commodity-specific de minimis exemption. In 2012, federal crop insurance premium subsidies of $7 billion were notified as commodity-specific outlays. As a result, only a portion of the premium subsidies were excluded under the commodity-specific de minimis exclusion, and U.S. product-specific outlays rose sharply to $5 billion in 2012 after averaging $0.4 billion during 2006-2011. This is slightly higher than the proposed $4.9 billion under the Doha texts.

The 2014 farm bill further expands federal support for crop insurance programs—CBO estimates that total premium subsidies will increase as a result. Crop insurance premium are a function of both risk and crop value; in other words, both premiums and premium subsidies will fluctuate with participation and with market conditions.

Proposed Blue Box Limits

Under the draft modalities, blue box criteria would be expanded to include payments that do not require any production, but are based on a fixed amount of historical production—for example, U.S. counter-cyclical payments (CCP) of the 2008 farm bill (P.L. 110-246) that were previously categorized as amber box would have potentially fit under this definition.[13] USDA could potentially notify both ARC and PLC of the 2014 farm bill (P.L. 113-79) as blue box programs, although their projected outlays (cited above) might make it a tight, if not impossible fit under a low-price scenario.[14]

Under PLC, a producer receives a payment on 85% of base acres when the annual national average farm price is below the statutorily set reference price for a program crop. The payment is proportional to a farm's historical base acres and yield, and the difference between the reference price and the annual farm price. Similarly, under the county-level agricultural risk coverage program (ARC-CO), a producer does not have to actually plant the crop to receive a payment—all program payments are triggered at the county level, not the farm, and any payments are made on 85% of historical base acres, not actual planted acres.[15] Hence payments under both PLC and ARC-CO are generally decoupled from planted acreage and actual yield but not price.[16] However, it remains to be seen how such program payments will be notified by the United States.

Green Box Outlays Remain Unbound

U.S. green box notifications have grown substantially over the years—from $46 billion in 1995 to $127.5 billion in 2012. However, there are no current or proposed limits on green box outlays.

[13] CCP outlays were notified as non-commodity-specific amber box by USDA. The CCP program was repealed by the 2014 farm bill (P.L. 113-79).

[14] According to two noted economists, Joseph Glauber, former chief economist of USDA, and Patrick Westhoff, Director, Food and Agriculture Policy Research Institute (FAPRI) at the University of Missouri, both PLC and ARC would likely qualify as non-product-specific amber outlays under current WTO rules and as blue box outlays under the proposed Doha texts; J. Glauber and P. Westhoff, *50 Shades of Amber: The 2014 Farm Bill and the WTO*, paper presented at the Allied Social Science Association annual meeting, January 3-5, 2015, Boston, MA.

[15] An exception would be "generic" base acres—i.e., historical cotton base acres that are no longer linked to cotton programs but become eligible for program payments if planted to "covered" program crops—which potentially recouple producer behavior and program payments.

[16] For more information, see CRS Report R43448, *Farm Commodity Provisions in the 2014 Farm Bill (P.L. 113-79).*

U.S. Domestic Support for Cotton Subject to Extra Scrutiny

A noteworthy change that could have potential implications for U.S. farm policy is that trade-distorting domestic support for cotton would be subject to greater cuts (82%) than for the rest of the agricultural sector (60%) under the proposed Doha modalities—largely due to the heightened visibility associated with the WTO cotton dispute settlement case.[17] CRS estimates that the resultant product-specific amber box limit for upland cotton would be approximately $200 million per year under the more severe reduction of 82%.[18]

The 2014 farm bill eliminated the previous income support programs (DP and CCP) for cotton, while retaining the marketing loan program that triggers payments when market prices drop below support levels (which were reduced in the 2014 farm bill). The income support programs were replaced with an insurance program, called the stacked income protection program (STAX), that uses a county-level, within-year, market-based revenue guarantee.[19] Although determined at the county level, indemnities are coupled to planted acres (as they are for other crop insurance products). STAX premiums are subsidized at an 80% rate. This premium subsidy could be notified as product-specific amber box, thus making them vulnerable to any significant reduction in cotton-specific AMS limits. Premium subsidies for upland cotton under traditional crop insurance policies were $554 million in 2012, $447 million in 2013, and $472 million in 2014.

Because cotton is singled out for separate treatment, it would also have an accelerated reduction to the cap for its product-specific blue box. The cap is reduced to one-third of the normal limit. However, the severe reduction in cotton's blue box cap appears to be less relevant than the reduction to cotton's amber box limit, since no cotton programs are obvious candidates for notification as blue box outlays.

Market Access

Formula Tariff Cuts

The main approach to cutting tariffs in the draft modalities agreement is a tiered approach based on the principle that higher tariffs merit larger cuts. Developed country tariff cuts would range from 50% to 70%, but subject to an overall 54% minimum average cut (**Table 2**). The cuts are made from legally "bound rates" which could be substantially higher than rates actually applied (most countries apply tariff rates that are well below their bound levels). The range for developing countries would be two-thirds of the equivalent tier for developed countries (ranging from 33.3% to 46.7%), subject to a maximum average cut of 36%. Least-developed countries and so-called small and vulnerable economies would be exempt from any tariff cuts. Recent new members of the WTO also would be exempt from new market access commitments.

[17] CRS Report R43336, *The WTO Brazil-U.S. Cotton Case.*

[18] Based on data available from U.S. domestic support notifications to the WTO.

[19] See CRS Report R43494, *Crop Insurance Provisions in the 2014 Farm Bill (P.L. 113-79).*

Table 2. Proposed Doha Round Tiered Formula Tariff Cuts

Tier	Developed Countries		Developing Countries	
	Current tariff	Reduction	Current tariff	Reduction
Bottom	0% to ≤ 20%	50%	0% to < 30%	33.3%
Lower Middle	> 20% to ≤ 50%	57%	> 30% to < 80%	38%
Upper Middle	> 50% to ≤ 75%	64%	> 80% to < 130%	42.7%
Top	> 75%	70%	> 130%	46.7%
Average cut	Minimum	54%	Maximum	36%

Source: "Revised Draft Modalities for Agriculture," TN/AG/W/4/ Rev.4, WTO, Dec. 6, 2008.

Deviations from Formula Cuts

A limited number of products would have smaller tariff cuts because of *flexibilities* that are provided for in the draft text. In particular, there are two primary designations: *sensitive* products (available to all countries) and *special* products (available to developing countries).

Sensitive Products

All countries (developed and developing) can declare certain products as "sensitive" to shield them from the full impact of general tariff cuts. In return they must let in an additional quota of imports at a lower tariff. Developed countries can designate up to 4% of products (as measured by tariff lines) as sensitive and would apply tariff cuts that are one-third, one-half, or two-thirds of the modalities-proposed formula tariff cut. (Canada and Japan are demanding up to 6% and 8%, respectively.) Developing countries can designate up to 5.3% of products as sensitive.

Countries that choose to designate products as sensitive would have to "pay" for the designation with expanded market access under a tariff quota (where quantities inside the quota are charged a lower or no duty and the above-quota tariff is determined according to the reduction formula). The larger the deviation from the modalities-proposed formula cut, the greater would be the amount of in-quota market access. For example, countries that reduce the normal tariff cut by one-third must admit a quota of 3% of domestic consumption. Similarly, a 3.5% quota accompanies a reduction of half of the normal tariff cut, and a 4% quota accompanies a reduction of two-thirds. In addition, sensitive products with tariffs above 100% must increase their quota by an additional 0.5% of domestic consumption. The United States indicated that developed countries could exercise the option of designating a higher number of tariff lines (i.e., greater than 4%) as sensitive products only if they agree to a proportionately substantial increase in market access.[20] There is disagreement over whether new products can be designated as sensitive, or only those products which already have a tariff-rate quota.

[20] *Inside U.S. Trade*, "U.S. Push For Change On Sensitive Farm Products Meets Resistance," October 23, 2009.

Special Products

Developing countries can designate up to 12% of tariff-line farm products as "special" for reasons of food and livelihood security or rural development. Up to 5% of these can be exempt from any tariff cuts, while the other portion may receive lower tariff cuts. However, the average tariff cut on all special products must be 11%. Recent new members are granted higher rates.

Safeguards

The draft modalities identify two types of safeguards that are available to temporarily protect importing countries from unexpected surges in imports—Special Agricultural Safeguard (SSG) and Special Safeguard Mechanism (SSM).

Special Agricultural Safeguard (SSG)

The SSG was part of the 1994 WTO Agreement on Agriculture. An SSG permits a country to reimpose or raise tariffs if, because of an import surge, certain price or quantity triggers are met. The draft modalities specify that an SSG may not raise tariffs above the pre-Doha "bound rate." Further, for developed countries the number of products eligible for SSG would be reduced to 1% of product tariff lines and would be eliminated after seven years. Tariff quota expansion rules apply if the product has been declared sensitive (see above). Developing countries could apply the SSG to not more than 2.5% of their tariff lines, although this number is expanded to 5% for small and vulnerable countries.

Special Safeguard Mechanism (SSM)

The SSM is a controversial proposed new safeguard mechanism that could be used by developing countries to temporarily protect producers of special products when imports surge. Disagreement over the size of surge in import volume needed to trigger an SSM, as well as the size of the temporary SSM tariff, is a primary factor behind the current impasse of the Doha Round. India and China proposed a SSM modality that would allow developing countries to impose tariffs 15% above bound rates if imports surged 10% above average trade levels. The U.S. counterproposal was for a higher SSM trigger of 40% above average trade levels, and tariff increases that would not exceed existing bound rates. According to USTR, the modality proposed by India and China would reduce existing market access, thus offsetting potential market access gains under proposed tariff cut modalities. For example, USTR estimated that a 10% trigger would have enabled China to invoke the SSM in eight of the ten years during the 1998 to 2007 period for soybeans, and India to restrict trade in six out of the nine years (1999 to 2007) for palm oil.

Due to the controversy surrounding the proposed SSM, the chair of the agriculture negotiating group issued a separate paper (TN/AG/W/7) on December 6, 2008, in which he tentatively offered the following SSM modalities:

- if imports rise by at least 40% above the previous three-year average, then tariffs could rise above the bound rate by an additional 12 percentage points; and
- if imports rise by at least 20% but less than 40% above their previous three-year average, then tariffs could rise above the bound rate by an additional 8 percentage points.

In addition, the side paper proposes possible disciplines to avoid the SSM being triggered frequently and frivolously, with more leniency proposed for small and vulnerable countries.

Implications for the United States

In general, U.S. agricultural exports would gain greater market access under the terms of the existing draft text, primarily in other developed countries; however, the extent of access gains depends on the scope of exceptions granted under sensitive and special product flexibilities, as well as the proposed SSM. A study of the tiered formula suggests that its application would reduce the average applied agricultural tariff faced by U.S. agricultural exporters from 18.7% to 9.1% in the absence of sensitive and special product flexibilities, and from 18.7% to 13.2% when such flexibilities are in effect.[21] Although the sensitive product designation would limit the market access opportunities somewhat, the number of such products would be limited. Also, the higher tariff protection afforded by sensitive product status is partially offset by new or expanded quotas access.

Export Competition

Export Subsidies

The draft modalities on export competition would have required developed countries to eliminate export subsidies by 2013; developing countries would have until 2016. All existing WTO commitments concerning food aid, technical and financial assistance in aid programs to improve agricultural productivity and infrastructure, and financing of commercial imports of basic foods would be unaffected by the elimination of export subsidies.

Export Financing

Government-supported export financing would be disciplined to avoid hidden subsidies and ensure the programs operate on commercial terms. Proposed conditions include limiting the repayment period to a maximum of 180 days and ensuring that they are self-financing—that is, returns must cover all costs. Export financing includes direct financing support (direct credits, refinancing, or interest rate support); export credit insurance or reinsurance and export credit guarantees; government-to-government credit agreements; and other forms of government support such as deferred invoicing and foreign exchange risk hedging.

International Food Aid

All food aid transactions would be needs-driven; fully in grant form; not tied directly or indirectly to commercial exports of agricultural or other products; and not linked to market development objectives. Countries would refrain from providing in-kind food aid which could have an adverse impact on local production or could potentially displace commercial sales. Food aid (cash or in-

[21] *Implications for the United States of the May 2008 Draft Agricultural Modalities*, by David Blandford, David Laborde, and Will Martin, International Center for Trade and Sustainable Development (ICTSD), June 2008.

kind) provided during an emergency would be put in a Safe Box and be subject to more lenient disciplines. Monetization (sale for cash) of in-kind food aid would be subject to stricter disciplines.

Implications for the United States

Export Subsidies

The United States has the second-largest level of permissible export subsidies under current WTO limits; however, it has not used any permissible export subsidies since 2010. Elimination of agricultural export subsidies has been a long-standing objective of U.S. trade policy. The two most recent farm bills eliminated the last two major U.S. direct export subsidy programs for agricultural products—the 2008 farm bill repealed legislative authority for the Export Enhancement Program (EEP), historically the largest U.S. agricultural export subsidy program, while the 2014 farm bill repealed authority for the Dairy Export Incentive Program (DEIP), a much smaller export subsidy program that had been re-authorized in the 2008 farm bill.

Export Credit Guarantees

The United States has traditionally been the world's leading user of export credit guarantees. In regard to proposed new Doha Round disciplines on export financing, the United States has already made substantial changes in its export credit guarantee programs in response to an adverse decision in a WTO cotton case.[22] The intermediate export credit guarantee program (GSM-103) and the Supplier Credit Guarantee Program (SCGP) were eliminated. For the shorter-term GSM-102 export credit guarantee program, a risk-based interest rate determination was established, a 1% cap on origination fees was lifted, and the maximum tenor (i.e., loan period) was shortened first to 24 months and finally to 18 months. To meet requirements laid out in the draft modalities, the tenor for GSM-102 short-term guarantees would have to be limited to six months (i.e., 180 days).

International Food Aid

The United States is among the world's leading food aid donors. Average annual spending on U.S. international food aid programs—including Food for Peace Title II and the McGovern-Dole International Food for Education and Child Nutrition Programs—averaged approximately $2.2 billion during the decade FY2002 to FY2011. U.S. international food aid has undergone significant reform under the past two farm bills. However, the United States continues to rely primarily on in-kind donation of U.S. commodities as the basis for its food aid programs.[23] Conforming to the proposed Doha Round modalities could entail further changes in U.S. programs, including greater emphasis on local in-country purchases rather than shipments of U.S. products, and stricter, more transparent controls on monetization.

[22] For more information, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*.

[23] See CRS Report R41072, *U.S. International Food Aid Programs: Background and Issues*

Status of the Doha Round Negotiations

By early 2008, substantial progress had been made in the Doha Round negotiations in narrowing or resolving differences in negotiating positions. However, a special 2008 WTO negotiating session failed to narrow the gap on the most contentious issues. A "modalities framework" was released in December 2008, in an attempt to lock in the status of current negotiated concessions, while adding detail to outstanding issues as a basis for further, more specific talks.[24]

Negotiations Reach an Impasse in 2009

At a 2009 WTO Ministerial Conference in Geneva, ministers again failed to resolve differences. Since the 2009 impasse, world leaders have continued to call for completion of the Doha Round. The chairman of the agriculture negotiating group issued a report in March 2010 identifying outstanding agricultural negotiating issues.[25] These included how complex tariffs could be expressed in simpler forms (e.g., as *ad valorem* rates); the special safeguard mechanism that would allow developing countries to levy temporary additional duties if imports surged or prices declined; and rules governing the establishment of new import quotas for "sensitive" products.

Despite several high-level endorsements, the future of the Doha Round is still uncertain. U.S. trade negotiators, Members of Congress, and commodity groups have expressed concern over whether an adequate balance can be achieved between U.S. domestic policy concessions and potential U.S. export gains. In particular, many have expressed skepticism about the draft modalities text for agriculture—especially the many exceptions for foreign importers—and want to see more market access for U.S. agricultural products, particularly from large, economically advanced, developing countries. The United States, in particular, has insisted on greater access to the markets of larger developing countries like Brazil, India, China, and South Africa. These countries, however, have shown little inclination as yet to make additional concessions.

As a negotiating strategy, the United States has stressed the importance of bilateral negotiations to advance the round. However, that approach has been met with some resistance from the more economically advanced, developing countries such as India, Brazil, China, and South Africa, who insist that the United States cannot look to drastically change what is now on the table (i.e., the draft modalities text) through bilateral negotiations.[26]

The 2013 Bali Agreement

In an effort to advance the stalled trade talks, ministers at the WTO's Ninth Ministerial Conference in Bali, Indonesia, December 3-7, 2013, adopted the so-called Bali Package—a series of decisions aimed at streamlining trade (referred to as trade facilitation), improving use of tariff

[24] The WTO glossary defines modality as a way to proceed. In WTO negotiations, modalities set broad outlines—such as formulas or approaches for tariff reductions—for final commitments.

[25] WTO, Committee on Agriculture, Special Session, Negotiating Group on Agriculture, "Report by the Chairman, H.E. Mr. David Walker, to the Trade Negotiating Committee for the Purpose of the TNC stocktaking exercise," March 22, 2010, viewed at http://www.wto.org/english/tratop_e/agric_e/negoti_tnc_22march10_e.htm.

[26] *Inside U.S. Trade*, "Doha Talks May Not Ramp Up Before Fall; U.S. Wants Bilaterals," June 26, 2009, viewed at http://www.insidetrade.com/secure/display.asp?dn=INSIDETRADE-27-25-17&f=wto2002.ask.

rate quotas (TRQs), and allowing developing countries more options for providing food security.[27] These issues were chosen, in large part, because it was thought that general agreement had already been reached on them within the earlier Doha Round agricultural negotiations, thus leaving little to be resolved at the Bali Ministerial and giving the talks the best chance of making some progress. As a result, the Bali Package covers only a small fraction of the Doha Round mandate and leaves the more difficult trade topics for future negotiations.

The Bali Package represents the first multilateral trade deal in nearly two decades; however, implementation of the agreement is proving difficult. The first major implementation step under the Bali Agreement was a July 31, 2014, deadline for the WTO's General Council to approve a protocol to incorporate the Trade Facilitation Agreement (TFA) into the text of the WTO's legal agreements. Then, WTO members would begin to address a so-called post-Bali agenda which would include drafting a work program by the end of 2014 to conclude the Doha Round.

However, efforts to put the TFA in place were dealt a setback in July, when a small group of countries, led by India, raised concerns about the status of the WTO's work on food security issues and blocked consensus on implementing the TFA. India wanted a permanent solution to exempt such programs—in which governments buy commodities from farmers at above-market prices to distribute to the poor—from counting toward WTO subsidy limits. The impasse was resolved in November 2014, when the United States and India reached an agreement to move forward with full implementation. Decision-making in the WTO is based on consensus; the elements of the U.S.-India bilateral agreement will now be discussed with the full WTO membership in the interest of arriving at final and simultaneously agreed-upon decision.

The Role of Congress

As one of the world's largest trading countries—for both agricultural and nonagricultural products—the United States has a major stake in negotiations on trade rules and disciplines. The U.S. Congress will continue to seek to influence and monitor ongoing trade agreement negotiations, including multilateral negotiations within the context of the WTO, to ensure that U.S. agricultural, food industry, and consumer interests are reflected in their outcomes.

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[27] CRS Report R43592, *Agriculture in the WTO Bali Ministerial Agreement.*