WTO disciplines and economic dimensions of the 2008 US Farm Bill

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Introduction

This chapter focuses on the political economy of the US Food, Conservation and Energy (FCE) Act of 2008 in light of current and potential WTO constraints on domestic support to agriculture. The uncertainty in global markets resulting from very sharp increases in the prices of oil and agricultural commodities in early 2008 and the dramatic global financial crisis and economic downturn later in the year set the stage for this evaluation of the new farm policy. As an exporter of its primary agricultural products, the US has maintained a relatively open market. Tariffs on agricultural imports are generally low (with a few exceptions, notably dairy products and sugar) and have been stable, with limited cuts to bound rates to meet WTO Uruguay Round commitments (Blandford, Laborde and Martin 2008). However, the policy story is more fluid in the domestic support arena where there have been substantial changes in policy instruments, particularly during the fourteen-year period since the Uruguay Round Agreement on Agriculture (URAA) came into effect. Annual acreage idling, a cornerstone of farm programmes since the 1950s, was abandoned in 1996 and was not resurrected during a subsequent period of low commodity prices. Deficiency payments that had been tied to prices and the production of specific crops were also replaced in 1996 by fixed direct payments largely decoupled from production decisions. Public stockholding and the use of export subsidies to dispose of government-held surpluses have almost disappeared, and binding production quotas for peanuts and the entire tobacco price-support programme have been eliminated.

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There have also been steps back towards subsidies tied to prices or production. Deficiency payments linked to market prices (but less closely than before to planted acreage) were reintroduced in 2002. Biofuel mandates and subsidies have emerged as an influential aspect of US policy as part of the security responses to the terrorist attacks of 11 September 2001 and as a reaction to the rise in oil prices that began in 2003. With agriculture’s new battle cry of providing ‘food, fiber and fuel’, the demand-augmenting and price-stimulating effects of biofuel policies have turned upside down the debate about US subsidies depressing world market prices. This has revived pressure not felt since the 1970s against a policy of idling millions of acres of land for supply control and environmental purposes under the long-term Conservation Reserve Program (CRP).

The ability of the powerful farm lobby in the US to elicit support in the political arena continues to be evident. Under the FCE Act, farmers retain a stream of fixed direct payments until 2012, despite back-to-back years of record net farm income in 2007 and 2008 from strong commodity markets. These payments are perhaps the least trade distorting among support policy instruments and the international disciplines on farm subsidies leave the determination of their level to domestic debate.\(^1\) But this is not all the farm lobby retained in 2008. Price support and countercyclical income support programmes were extended and the new Farm Bill included an Average Crop Revenue Election (ACRE) programme under which payments could mount up substantially in an era of high prices. Agriculture also has strengthened political clout to influence agricultural prices through energy policy. Thus, the farm sector is well positioned to receive support in the event of a wide range of contingencies. This is a sobering result for those hoping that a wealthy country like the US with significant agricultural comparative advantage would move away from subsidies that distort agricultural incentives.

US farm policy under the Uruguay Round

The long-term transformation of American agriculture in the twentieth century and the circumstances and associated outcomes of farm policy are well described by Bruce Gardner (2009). Once farm programmes

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\(^1\) OECD (2005) provides a review of theoretical arguments concerning the relative production- and trade-distorting effects of direct payments and other support policies and of empirical studies measuring these effects.
available funding (nearly US$ 50 billion) went to anticipated commodity support. Farmers retained planting flexibility: the fixed direct and countercyclical payments continued to be made based on past production and did not require farmers to grow specific crops.2

The mix of conservation and environmental programmes included in the FSRI Act highlights another aspect of policy discretion. The authority for the CRP under which farmers are paid to idle land on a long-term basis to achieve conservation and environmental benefits increased from 36.4 million acres to 39.2 million acres. However, most new environmental expenditure went towards measures to assist livestock operations (expanding an existing Environmental Quality Incentives Program) and conservation measures on land that remained in production (a new Conservation Security Program). Long-term land idling has historically been enacted as a supply control and conservation measure during times of low prices (the 1930s, the 1960s, and again in 1985) and has expired when market demand strengthened (during World War II and in the 1970s). The expenditures on the CRP and the environmental payments programmes for livestock operations and working fall in the WTO green box. Competitors in world markets naturally do not complain about the reduction in US production that the CRP causes. The CRP had occasionally been criticised for unnecessarily restricting output and keeping world prices higher than they would otherwise have been, but this was not a policy issue with the low market prices in 2002.

Passage of the 2002 FSRI Act was met with derision by critics of US policy, but the US commitments under the URAA proved too lax to limit farm spending levels effectively when prices fell after 1997. The US Total Aggregate Measure of Support (AMS) for subsidies tied to production was well below its WTO cap of US$ 19.1 billion when the FAIR Act was passed (Josling 2007). When support provided to farmers began to rise automatically and Congress added new subsidies, the US avoided exceeding its AMS cap by reporting the supplemental market-loss payments as non-product-specific support, which remained well below the de minimis threshold of 5 per cent of the total value of agricultural production. Congress largely ignored the WTO in drafting the FSRI Act despite the launch of WTO negotiations on agriculture in 2000 and the full Doha Development Agenda (Doha Round) in 2001.

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2 The decoupling of support from production decisions was partly undermined by a one-time option to update the acreage bases determining the direct payments and the base acreage and fixed yield levels determining the countercyclical payments.
The 2008 FCE Act

There was a high level of interest in a new Farm Bill by 2006 (Orden, Blandford and Josling 2009). Coalitions of groups arguing for reform were active and gained some traction in 2007 when widespread criticisms of farm policy appeared in major urban newspapers (Arha et al. 2007). However, the broader political agenda for both parties was concerned with keeping the support of voters and special interests in the swing states of the Midwest, and reform of farm programmes carried political risks. A new Farm Bill was anticipated in 2007, but the debate spilled over into 2008.

As the legislation made its way through Congress, the strategy of farm groups was to keep the structure and budget allocated to the commodity programmes intact, while seeking to build a broader coalition of congressional voting majorities. With both houses of Congress under the control of the Democratic Party after the elections in November 2006, the prospect of increased funding for food stamps and other domestic food assistance to the poor was as important as the future of commodity programmes. If this additional funding was forthcoming then the farm coalition would have been successful in expanding the scope of the Farm Bill without any sacrifice of commodity support. The safety net would be preserved. By 2006, commodity prices had strengthened from the low levels of the early 2000s. Although not as high as they would become in 2008, prices were already projected to remain high enough to reduce price-linked payments sharply (see Table 9.1).

Overview

In aggregate terms, the FCE Act that became law in June 2008 distributes expected mandatory expenditures for the fiscal years 2008–2012 in a similar way to levels anticipated under extension of the FSRI Act, as shown in Table 9.2. An increase in total expected outlays of US$ 5 billion, and significant shifts in spending among categories at the margin, reflect the effort to attract a broad coalition of congressional backers through increased expenditures on nutrition, conservation, energy and a host of other programmes targeted at specific constituencies. For the subsequent years 2013–2017 (not shown in the Table), there is a further substantial increase in anticipated expenditures on nutrition if the FCE Act is renewed. It only remained within the ten-year baseline budget projection of the Congressional Budget Office (CBO), as required by Congress, by including nearly US$ 10 billion worth of new revenues.
Table 9.2. Aggregate projected outlays under the 2008 FCE Act

<table>
<thead>
<tr>
<th>Category</th>
<th>2002 FSRRI</th>
<th>Proposed adjustments (House; Senate versions of the new Farm Bill)</th>
<th>Final FCE Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commodity support</td>
<td>43.3</td>
<td>-1.0; -3.5</td>
<td>41.6</td>
</tr>
<tr>
<td>Conservation</td>
<td>21.4</td>
<td>2.8; 4.4</td>
<td>24.1</td>
</tr>
<tr>
<td>Crop insurance</td>
<td>25.7</td>
<td>-4.0; -3.7</td>
<td>21.8</td>
</tr>
<tr>
<td>Energy</td>
<td>0.0</td>
<td>2.4; 1.0</td>
<td>0.6</td>
</tr>
<tr>
<td>Nutrition</td>
<td>186.0</td>
<td>4.2; 5.3</td>
<td>188.9</td>
</tr>
<tr>
<td>Other</td>
<td>7.9</td>
<td>1.5; 2.0</td>
<td>12.0</td>
</tr>
<tr>
<td>Total</td>
<td>284.0</td>
<td>5.9; 5.5</td>
<td>289.0</td>
</tr>
</tbody>
</table>

Source: Congressional Budget Office (2008b) and Congressional Research Service (Chite 2007 and Johnson 2008).

The projected commodity programme spending of US$ 41.6 billion for 2008–2012 under the FCE Act comprises mostly fixed direct payments that traditional subsidy recipients defended against reductions. In contrast, commodity support had been US$ 59.3 billion during the previous five fiscal years and had been projected to rise to US$ 78 billion during those years when the 2002 Farm Bill was written (Chite 2007). Thus, although farmers retained their support programmes, they did not avoid a squeeze-down of anticipated payments under high market prices in the FCE Act. Authority for the CRP was reduced to 32 million acres but expected expenditures for conservation programmes increased by US$ 2.7 billion to US$ 24.1 billion, reaching almost 60 per cent of the projected commodity support, compared to just one-quarter during the previous five years. In this sense, in the event that projected high prices are realised, a substantial relative shift towards conservation and the environment will take place in farm programme outlays. But farmers remained well protected if prices turned out lower than projected – through retention, and even a marginal strengthening, of the loan-rate and countercyclical tiers of commodity support. The FCE Act offered new demand-augmenting support for fruits and vegetables but did not authorise production of these crops on base acres, which was opposed
by domestic growers. The FCE Act also extended support through dairy market loss payments and created new payments to processors of domestic or imported cotton to replace the ‘Step 2’ payments to processors of domestic cotton that had been ruled in violation of WTO rules in the case brought by Brazil (WTO 2005). Various other titles of the Farm Bill expanded and added programmes for biofuels, horticultural crops and disaster assistance.

Throughout the debate of 2007–2008 most farm groups remained wary of any changes to existing programmes, despite the rising prices for oil and farm commodities in 2006–2007 and the boom that caused commodities to hit record price levels in the first half of 2008. Nor was there much of a budgetary incentive to change policy instruments. Relatively high prices were built into the 2007 CBO baseline budget projection used by Congress. Therefore, there was little of the opportunity that had arisen in 1995–1996 to capture projected expenditures that would not materialise because of high prices. New instruments could deliver higher spending in the FCE Act only if their fiscal cost was approved by the Congress or misjudged in budget analysis, while holding on to the existing loan rate and countercyclical programmes bore little political cost to the farm lobby.

With high farm commodity prices in 2008, the fixed direct payments came under scrutiny in the domestic policy debate. Decoupling is encouraged by WTO rules as a way of providing an attractive non-trade-distorting support option. But with the direct payments making up so large a share of the commodity support anticipated under the FCE Act, proponents of alternative spending eyed a reduction in direct payments to fund other priorities. The direct payments were retained only after a rancorous domestic confrontation, particularly in terms of income eligibility limits for recipients. Payment eligibility criteria were tightened modestly (to caps on non-farm income of US$ 500,000 for all three commodity support programmes and farm income of US$ 750,000 for direct payments only).

Ethanol

Among the proximate causes of the 2007–2008 boom in commodity markets were the US ethanol fuel tax credit and ethanol use mandates, designed to promote corn-based fuel production. These are highly product-specific policy instruments reinforced by a high import duty. Initiated in 1978, the tax credit, together with other federal and state incentives, had only induced a modest level of ethanol output (less than two billion gallons in 2005) until oil prices rose and new blending mandates were enacted. The federal ethanol tax credit of US$ 0.51 per gallon added more than US$ 1.50 to the break-even price that could be paid for corn converted into ethanol (Tyner 2007). The subsidy exceeded US$ 3 billion by 2007 and the Energy Policy Act of 2005 mandated that production reach 7.5 billion gallons by 2012. As oil prices rose, the armed conflicts in Iraq and Afghanistan seemed endless, and concerns about climate change gained traction in the US policy debate, both political parties called for increased energy security for the US. The Energy Independence and Security (EIS) Act of December 2007 expanded the mandate for biofuel production to 36 billion gallons by 2022 of which up to 15 billion gallons were to come primarily from corn-based ethanol. Model-based estimates of the effect on corn market prices ranged from an increase of 25 per cent (US$ 0.74 per bushel) in 2006 due to the tax credit assuming the mandate was not binding (de Gorter and Just 2007), to 12–14 per cent (by then also around US$ 0.70) in 2008–2009 (Babcock 2008) or averaged for 2011–2017 (FAPRI 2008) due to the mandates, tax credits and import duties. At a time when record oil prices were stimulating ethanol production in early 2008, the new Farm Bill reduced the ethanol tax credit to US$ 0.46 per gallon but extended the ethanol import duty until 2012.

New revenue guarantees

In one respect the sharp rise in prices in 2008 shifted policy towards a new instrument, as occurred in 1995–1996. In this case, however, the shift was towards a programme more closely tied to market prices. The FCE adopted an optional new revenue guarantee programme, the Average Crop Revenue Election (ACRE) programme, which is likely to be considered product-specific trade-distorting support in the WTO. Starting with the 2009 crop, farmers electing ACRE for all covered commodities for the duration of the FCE Act incur a 20 per cent cut in direct payments and a 30 per cent cut in

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3 Domestic growers of fruits and vegetables were concerned about expanded supplies and lower prices and objected to having to compete with farmers receiving subsidies on base acres. The domestic growers' objections parallel the challenges being raised within the WTO to the notification of direct payments in the green box as allegedly decoupled. In the WTO challenges, however, the objection is to the adverse effects on prices of the subsidised crops from restrictions on planting that limit movement into fruits and vegetables. The FCE Act included only a small pilot programme to allow production on base acreage of certain fruits and vegetables (for processing on 60,000 acres in seven Midwestern states) with any such acreage planted being ineligible for support payments during that year.
their loan rates. In exchange, if crop revenue for the state (yield per planted acre times the national price) is below a guaranteed level, and enrolled producers incur a loss of revenue for that crop on their farms, then they are assured of payments of up to 25 per cent of the revenue guarantee. The guarantee is 90 per cent of the revenue derived from the two-year national average of lagged prices times the five-year Olympic average (dropping the highest and lowest values) of past state yields (Committee on Agriculture 2008; Zulauf 2008). This guarantee covers 83.3 per cent of the acreage planted (or considered to be planted) by a farmer for each of the covered commodities; thus it is coupled to current production. Once the initial per-acre guarantee is established for a farmer entering the programme, it cannot vary by more than 10 per cent from the previous year’s guarantee, moderating any sharp downturn in revenue.

In assessing the cost of the Farm Bill, the CBO concluded that only a relatively small fraction of farmers would enrol in the ACRE programme and that its cost would be modest. But with prices at historically high levels in the first half of 2008, the administration argued that initiating ACRE using the moving average of recent prices ran the risk of inducing subsidy payments at much higher price levels than under the target prices of the countercyclical payments programme. As an example, the administration assumed that 90 per cent of farmers opted for the ACRE programme and found that payments for corn alone would be nearly US$ 4 billion in 2009 at prices as high as US$ 4.00 per bushel, compared to no countercyclical payments at prices above the corn target of US$ 2.63 per bushel (USDA 2008b). Although the ACRE payments decline once prices stabilise, this example illustrates that ACRE raises the price level at which subsidy payments would occur during a transition period when high prices fall. The ACRE programme opened the most substantial opportunity within the FCE Act to avoid a squeeze-down of subsidy payments resulting from high prices, as acknowledged by its proponents (Brasher 2008). Blandford and Josling (2008) concluded that ACRE programme payments would in some years exceed commodity-specific caps under negotiation in the Doha Round if the prices of corn, wheat and soybeans during 2007–2012 followed a pattern similar to those of the 1970s, 1980s or 1990s.

**Other farm support programmes**

Other than the ACRE programme, which provides an optional new revenue guarantee, the traditional crop and revenue insurance programmes had expanded at increased costs to the government in the early 2000s. The FCE Act stipulated that total premiums be adjusted slightly to equal total indemnities payments over time (resulting in an expected loss ratio equal to one) and reduced the subsidisation of the administrative costs of delivering crop and revenue insurance programmes by lowering payments made to the insurance agents. Larger claimed savings (almost US$ 2.8 billion of the savings shown in Table 9.2) were achieved simply by postponing the timing of some payments. But the cost of the subsidies for crop and revenue insurance was projected to rise because of the projected high commodity prices (Table 9.1).

Congress had also appropriated annual disaster relief to agriculture that averaged about US$ 2.1 billion annually during 2000–2005. The FCE Act created mandatory funding (Supplemental Revenue Assistance (SURE)) for five disaster-relief programmes by amending the Trade Act of 1974 to establish a mandatory programme (of nearly US$ 4 billion over five years) financed from import duties. Again this was a step towards avoiding a squeeze-down of support to agriculture by ensuring at least partial availability of funds for disaster relief without requiring annual congressional appropriations.

Slight increases in loan rates and target prices contained in the FCE Act strengthen policy instruments coupled to production. This will prove innocuous (with the exception of raising the sugar loan rate) if prices remain well above loan-rate levels as projected. But these parameter adjustments are another signal of the strength of the farm lobby. The argument made, and which will be extended if farm price and income circumstances deteriorate compared with their 2008 levels, is that higher energy prices and related production costs render inadequate the safety net that was good enough, and indeed was lauded by many farm groups, from 2002 to 2006. Traditional price and income support levels that were raised only slightly in 2007 could be increased further in the future.

Despite all of these considerations, the high world prices that in early 2008 were straining the global food system and prompting defensive policy reactions among exporters and importers worldwide had only modest effects on the commodity support provisions of the US Farm

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4 The loan rate for raw cane sugar is to rise from US$ 0.18 per pound to US$ 0.1875 by 2012. The Secretary of Agriculture is required to set domestic marketing allotments at no less that 85 per cent of estimated quantities for domestic human consumption and to purchase sugar to produce biodiesel if necessary to avoid forfeitures of sugar under the loan-rate price support programme, thus insulating domestic producers from pressure of increased imports under trade agreements.
Bill. There was no significant shift towards decoupled policy instruments as had occurred when prices rose sharply in 1995–1996, nor were there calls for an end to the permanent support legislation as had been articulated in the earlier debate. Still, the farm lobby did not avoid, at least for the time being, a projected squeeze-down of anticipated subsidy payments under the price-linked support programmes. Passing a bill proved difficult with high prices prevailing, as it had with the high prices in 1995–1996. In the end, the majorities assembled in Congress to enact this legislation, over a presidential veto that the administration made only half-hearted efforts to sustain, demonstrated the ability of the farm lobby to secure a continuation of support programmes that largely served the same purposes and benefited the same interest groups as did earlier legislation.

Nutrition and food aid

Poverty and food insecurity are domestic policy issues in the US despite its high average real income, and international food aid has long been linked to Farm Bills and farm policy. Following the sharp increases of farm commodity prices in the winter and spring of 2008, these two aspects of the 2008 FCE Act merit attention, although space limitations preclude a full discussion here. The coalition of farm producers with advocates of food assistance to the poor has long been critical to enacting Farm Bills. But, interestingly, the approaches taken towards meeting the food needs of the domestic poor differ markedly from the approach taken towards international food aid.

The US provides most domestic food assistance through its food stamp programme, renamed the Supplemental Nutrition Assistance Program (SNAP) in the FCE Act. Increased funding for this and other nutrition programmes became a critical part of the Farm Bill, as shown in Table 9.2. The changes implemented eased some of the eligibility criteria leading to higher projected spending (Johnson 2008). Moreover, this is a mandatory programme available to all applicants who meet the eligibility criteria. Thus, if the economy enters a recession, as it did in late 2008, then SNAP expenditures will rise relative to the projected baseline for the FCE Act even in the absence of any policy changes.

International food aid is also extended in the FCE Act, particularly through the traditional P.L. 480 Title II programme that provides US commodities primarily for emergency relief and also for use or resale to support non-emergency development projects. The FCE Act authorises increased spending from an average of US$ 1.2 billion to US$ 2.5 billion annually for Title II, but since this is not a mandatory programme, actual expenditures will depend on future appropriations of funds by Congress. The provision of only US commodities is controversial in the WTO and also differs from the domestic SNAP in which the assistance provided (largely by electronic debit cards) can be used for a very broad array of food items without regard to whether they are domestically produced or imported.

Possible further WTO disciplines

The historical record demonstrates very little pre-emptive movement of US policy to improve its consistency with the rules of the WTO. Under low prices, the 2002 FSRI Act simply included a clause authorising the Secretary of Agriculture to make adjustments to payments, if necessary to maintain US compliance. Whether this authority would be adequate to make significant changes to farm policy to comply with WTO payment limits has never been tested. The challenge launched by Brazil in 2003 against the US cotton programme under the WTO dispute settlement process led to slight changes in policy. The US eliminated the Step 2 payments made to processors of domestic cotton, modified some of the export credit guarantee programmes prohibited by the WTO and eliminated others, but did not change the basic cotton support programmes found to cause serious prejudice to Brazil's interests. There has been little appetite in Congress for making other changes designed to reposition US programmes so that conflict with WTO agreements is minimised. In the 2008 FCE Act only a few modest steps were taken. The first such policy change creates new room for subsidies rather than a reduced level of support: the dairy programme was modified to apply price supports only to processed products (butter, cheese and non-fat dry milk) rather than fluid milk, potentially reducing substantially the dairy market price support (MPS) that would be reported in WTO notifications while having no real market effects. The payments compliance adjustment authority from the FSRI Act was extended, and authority was repealed for the GSM-103 export credit programme, the 1 per cent fee cap on the GSM-102 programme and the inactive Export Enhancement Program (EEP).

Dispute cases brought by Canada and Brazil in 2007 raise the broad question of whether the US violated its total AMS commitment under the URAA during certain years (WTO 2007a, b). A primary issue, building
on a judgment in the earlier cotton case, is whether fixed direct payments to farmers have been correctly notified as meeting the criteria of the green box or should be included in the AMS because they are made for base acreage on which production of fruits and vegetables is prohibited. A second issue concerns whether US countercyclical payments under the 2002 Farm Bill (and the earlier crop market-loss payments) should be classified as non-product-specific (NPS) support, as notified by the US. The alternative argument is that they should be considered product-specific payments, because they are inherently linked to specific commodity prices and because they also rest on the fruit and vegetable production exclusion. The outcomes of these dispute settlement cases will have implications both for the US and for other countries in terms of the manner in which certain policies are notified, whether domestic support is judged consistent with WTO obligations, and which policy reforms might be undertaken in the future.5

New Doha Round commitments might also constrain US farm programmes in terms of choices of instrument or subsidy levels. In a series of papers Blandford and co-authors have examined this possibility. Blandford and Orden (2008) take into account the provisions of the 2008 FCE Act (excluding possible ACRE payments), projections for future prices and production as of mid-2008, and the proposed modalities at the time of the suspension of Doha Round negotiations in July 2008 (WTO 2008). They conclude that if relatively high prices continue, the US would be able to adapt to the new WTO constraints with little change in its policies, with the possible exception of binding commodity-specific constraints for sugar (AMS) and cotton (blue box). The strengthened disciplines would squeeze down the leeway the US would have for providing support reported to the WTO as trade-distorting, but would still provide substantial flexibility. This outcome is illustrated in Figure 9.1. It shows projected blue box, AMS, and product-specific and non-product-specific de minimis expenditures for 2014. The sum is compared with the potential limit of nearly US$ 14.5 billion under a WTO constraint on overall trade-distorting support (OTDS) by showing a projected residual category of unused spending within the constraint. Projected blue box expenditures (countercyclical payments) are only US$ 0.5 billion, well under the modalities cap of US$ 4.8 billion. Likewise,


Figure 9.1. Projected composition of US notified support in 2014 and “available” OTDS support (excluding ACRE payments), billion US dollars
Source: Blandford and Orden (2008)

total AMS (excluding de minimis) is projected at US$ 3.5 billion, well under the proposed cap of US$ 7.6 billion. Product-specific de minimis is negligible and non-product-specific de minimis is projected at US$ 4.8 billion, largely due to higher projected expenditures on subsidised crop and revenue insurance at high prices. These projections and caps leave room for various additional OTDS expenditures of about US$ 5.4 billion. The latitude available partly reflects the redesign of the dairy support programme in the FCE Act, which reduces the dairy AMS that might be reported by as much as US$ 3.6 billion.

The apparent ease of complying with new WTO constraints under relatively high commodity prices made it possible for the US administration to pursue a Doha Round agreement in mid-2008. Yet past experience with farm support legislation shows that any required adjustments would not be easy to make politically. Any pressure on the sugar programme would be resisted by the domestic industry and the stringent product-specific modalities proposed for cotton could pose a challenge. Moreover, the proposed large reductions in the OTDS and total AMS constrain the contingent room for manoeuvre for support that is most closely linked to prices. If the high-price environment of USDA’s 2008 projections does not materialise, the limit on the total AMS and additional product-specific AMS caps under the proposed Doha Round modalities could be exceeded by the US unless price-linked support programmes are modified or some other alternative to current support policies is adopted. This would be even more likely if many farmers were to opt for the ACRE programme.

There is also the increasingly germane issue of how ethanol subsidies will be notified in the future. Some biofuel production subsidies were notified by the US in 2007 for the period 2002–2005 and these may
increase under the FCE Act or other legislation. More significantly, the forgone revenue from the federal ethanol tax credit to fuel blenders and related state tax provisions could reach US$ 7–8 billion or more on corn-based ethanol. If these amounts were to be counted, the level of the AMS would be substantially higher.\footnote{The federal ethanol fuel blenders’ tax credit is currently notified to the WTO by the US as an industrial subsidy. However, ethanol itself is considered an agricultural product. Because ethanol policies affect corn prices, they could also be judged to be a ‘measure directed at processors’ that provides ‘benefit to the producers of the basic agricultural product’ and thus subject to inclusion in the AMS under Annex 3, number 7 ‘to the extent that such measures benefit producers of the basic agricultural product’. This would correspond to the way the US formerly notified Step 2 processor payments for cotton. It will be interesting to observe next how the US decides to report the new subsidies created in the FCE Act for processors of both domestic and imported cotton, to see whether an analogy between subsidies to cotton processors and tax credits to ethanol processors can continue to be drawn. Of course, if ethanol policies are justified on environmental grounds or are related to national security, they could be exempted from the AMS subsidy disciplines provided they meet the relevant criteria of the green box or GATT articles. The use of mandates versus tax credits raises the issue of which policy is judged a ‘measure’ subject to possible disciplines. As shown by de Gorter and Just (2007), when there is no binding mandate, the tax credit adds substantially to the level of production of ethanol, its price, and the price and output of corn. When there is a binding consumption mandate, the tax preference itself has no such effects. In this case, it is the binding mandate that affects ethanol and corn production and prices and would be the policy instrument to which WTO agricultural disciplines might apply.}

**Future prospects**

A powerful farm lobby in the US continues to have the ability to gain support in the political arena. Both the FAIR Act in 1996 and the FCE Act in 2008 were framed under favourable market prices. Ending farm subsidies should have been easier in 2008 than in 1996 in a number of respects. Supply-control annual acreage set aside and high price supports had waned as an intervention strategy and farmers had benefited from planting flexibility through enhanced ability to shift acreage among crops in response to market opportunities. Buyouts of restrictive production quotas had occurred for two speciality crops (peanuts and tobacco). Net farm incomes were at record levels. Yet, with the possibly significant exception of the ACRE programme, which reverts to coupling potential payments to market prices and planting decisions, the structure of farm support policies was essentially unchanged by Congress in the 2008 Farm Bill. Specific subsequent events, such as the breakdown of global financial markets that occurred in late 2008, could not have been foreseen. But

Despite the ability of the farm lobby to retain its support programmes until 2012, there are several uncertainties about the alignments that have allowed US farm subsidies to endure. Expenditures for nutrition have come to dominate total expenditures in Farm Bills and are projected to increase their share further. Likewise, at least when prices are relatively high, spending on conservation and the environment becomes a substantial part of total expenditures on the production side of agriculture. Further realignment could occur in the coalitions needed for congressional passage of Farm Bills. Nutrition and environmental interests might at some stage decide that their issues could be better served outside the context of the Farm Bill. At a minimum the traditional farm lobby could find itself no longer the dominant partner in the broader coalition that has secured the enactment of Farm Bills, but instead in a supporting position within a coalition dominated by other interests. Yet there are few hints of any related decline in the influence of the farm lobby in the protracted debate over the 2008 FCE Act.

That fixed direct payments became a critical focus of domestic controversy in a high-price environment is also indicative that there may be a limit to the power of the farm lobby, though again that limit proved largely ineffective in 2008. The international disciplines that allow unrestricted decoupled income payments in the WTO green box provide room for this domestic debate, but acrimony over the fixed direct payments in the US makes them unattractive to farm groups and their representatives, who seek to minimise controversy over the support provided. This outcome suggests that decoupled income support payments may prove less useful than intended for fostering international coordination to reduce trade-distorting subsidies.

The URRAA disciplines have played little part in the post-Uruguay Round decisions on US farm policy. Under high prices, the US is likely to be able to stay within the tighter limits on support if there is eventually a Doha Round agreement. These considerations do not diminish the value of potential new subsidy constraints through the WTO. But the latitude allowed by the Doha Round disciplines proposed in 2008 illustrates the substantial distance still to be covered to achieve a more liberalised rules-based global trade system for agriculture. Even so, some combination of lower world prices, adverse WTO dispute settlement rulings on the notification of support in the green box, inclusion of ethanol subsidies in notified agricultural support, or a Doha Round
agreement that reduced the AMS cap and bound the OTDS and blue box for the first time could lead to problems of WTO domestic support compliance for the US. In that case, the next Farm Bill could be framed under a very different set of circumstances.

The deepening entrenchment of the domestic ethanol sector during the oil-price boom of the mid-2000s both demonstrates the continued political strength of the agricultural lobby and constitutes a substantial intervention coupled to production. In addition, restrictive land-use policy was never completely abandoned – the CRP has always had a substantial supply-reducing intention and effect. If biofuel demand persists under ethanol mandates and subsidies, spending on conservation may decline as farmers voluntarily abandon the CRP. This would shift the political balance within Farm Bill deliberations back towards the commodity lobby, but it could also provoke a break in the political alliance that forged the 2008 Farm Bill.7

A Doha Round that agreed on OTDS, tighter total and product-specific AMS, and new blue box total and product-specific limits would be a valuable check in the event that traditional US programmes are ratcheted up or agricultural prices return to the downward trend that has characterised most of the past half century. In such circumstances, an option for US policymakers would be to expand green box support for farmers under the environmental category, disaster relief, or direct payments that are modified if necessary to meet any WTO challenges. If US policy inches towards instruments with greater emphasis on energy crops, disaster assistance, crop and revenue insurance, and environmental programmes on working lands, scrutiny for consistency with the green box will be an essential bulwark against new forms of production- and trade-distorting programmes. But as policy stood in mid-2008, it is unlikely that the WTO will affect ethanol tax credits and mandates or long-term land idling under the CRP. These instruments, largely outside WTO disciplines, were working to drive agricultural prices up in 2008 and arguably have become, along with other environmental payments and crop and revenue insurance subsidies, the most important elements of US farm policy. The boom-related optimism in the agricultural sector arose in early 2008 in part because augmentation of demand through ‘food, fiber and fuel’ reinforced environmentally rationalised supply control as a mechanism for keeping farm commodity prices higher than they would otherwise be. The WTO has little ability to limit these distortions.

All of these considerations are relevant in a world economy that has been shaken within the single year 2008 by both a sharp commodity price boom, which caused great initial anxiety about food supplies and affordability, and a larger global financial crisis, that as one consequence dampened the commodity price boom but also slowed economic growth and raised fears of a deep worldwide recession. Some US support policies tend to drive world market farm commodity prices down – such as its domestic price support payments, countercyclical payments, and to a lesser extent even fixed direct payments. These effects have been the concern of developing countries that are competing exporters or that blame low world prices for undermining long-term investments in their own agricultural sectors. But other US policies have the offsetting effect of reducing US production or raising demand for basic crops such as corn. These policies, in contrast, come under sharper scrutiny when world food prices increase and low-income food-importing countries face difficulties. The 2008 FCE Act did little to lessen these conflicting policy impacts. Based on this Act, an end to farm programmes that distort agricultural production incentives cannot be anticipated in the US in the foreseeable future. This leaves an ongoing policy challenge to make US farm support policies more benign and consistent with economic liberalism and real environmental progress.

References


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7 With the sharp rise in prices in mid-2008 the Secretary of Agriculture used his authority to allow haymaking and grazing on some CRP land, which was opposed by the National Wildlife Federation and other environmentalists who sought a court injunction to overturn the decision. He also considered but decided against authorising an early release of CRP acreage without payment penalties. The CRP contracts for over 5 million acres that are scheduled to expire during 2008 or 2009 had not been renewed by July 2008 and this land could return to production (Harris et al. 2008).


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