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# Agriculture in the WTO: Rules and Limits on Domestic Support

(name redacted)

Specialist in Agricultural Policy

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## Summary

Omnibus U.S. farm legislation—referred to as the farm bill—is renewed every five or six years. Farm income and commodity price support programs have been a part of U.S. farm bills since the 1930s. Each successive farm bill usually involves some modification or replacement of existing farm programs. A key question likely to be asked of every new farm proposal or program is how it will affect U.S. commitments under the World Trade Organization’s (WTO’s) Agreement on Agriculture (AoA) and its Agreement on Subsidies and Countervailing Measures (SCM).

The United States currently is committed, under the AoA, to spend no more than \$19.1 billion annually on those domestic farm support programs most likely to distort trade—referred to as amber box programs and measured by the aggregate measure of support (AMS). The AoA spells out the rules for countries to determine whether their policies—for any given year—are potentially trade-distorting, and how to calculate the costs.

An additional consideration for WTO compliance—the SCM rules governing adverse market effects resulting from a farm program—comes into play when a domestic farm policy effect spills over into international markets. The SCM details rules for determining when a subsidy is “prohibited” (e.g., certain export- and import-substitution subsidies) and when it is “actionable” (e.g., certain domestic support policies that incentivize overproduction and result in significant market distortion—whether as lower market prices or altered trade patterns). Because the United States is a major producer, consumer, exporter, and/or importer of most major agricultural commodities, the SCM is relevant for most major U.S. agricultural products. As a result, if a particular U.S. farm program is deemed to result in market distortion that adversely affects other WTO members—even if it is within agreed-upon AoA spending limits—then that program may be subject to challenge under the WTO dispute settlement procedures.

Designing farm programs that comply with WTO rules can avoid potential trade disputes. Based on AoA and SCM rules, U.S. domestic agricultural support can be evaluated against five specific successive questions to determine how it is classified under the WTO rules, whether total support is within WTO limits, and whether a specific program fully complies with WTO rules.

1. Can a program’s support outlays be excluded from the AMS total by being placed in the green box of minimally distorting programs?
2. Can a program’s support outlays be excluded from the AMS total by being placed in the blue box of production-limiting programs?
3. If amber, will support be less than 5% of production value (either product-specific or non-product-specific) thus qualifying for the *de minimis* exclusion?
4. Does the total, remaining annual AMS exceed the \$19.1 billion amber box limit?
5. Even if a program is found to be fully compliant with the AoA rules and limits, does its support result in price or trade distortion in international markets? If so, then it may be subject to challenge under SCM rules.

## Contents

Introduction.....	1
WTO Commitments May Influence Policy Choices .....	1
Agreement on Agriculture (AoA).....	2
Agreement on Subsidies and Countervailing Measures (SCM).....	3
WTO Dispute Settlement Understanding (DSU) .....	4
Questions for Evaluating WTO Compliance of Domestic Farm Spending .....	4
Question 1: Can This Measure Be Placed in the Green Box? .....	5
Question 2: Can This Measure Be Placed in the Blue Box? .....	7
Question 3: If Amber, Will Support Exceed 5% of Production Value? .....	8
Question 4: Does Total Annual AMS Now Exceed \$19.1 Billion? .....	8
Question 5: Does Domestic Support Result in Significant Market Distortion in International Markets?.....	9
Conclusion .....	9

## Figures

Figure 1. U.S. Amber Box Outlays Subject to AMS Spending Limit.....	10
Figure 2. Total U.S. Amber Box Outlays Including <i>De Minimis</i> Exclusions .....	10
Figure 3. U.S. Annual Notifications to the WTO, All Categories.....	11
Figure 4. U.S. Annual Green Box Notifications by Green Box Category .....	11

## Appendixes

Appendix. Classification of U.S. Policies in 2012.....	12
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## Contacts

Author Contact Information.....	14
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## Introduction

Trade plays a critical role in the U.S. agricultural sector. USDA estimates that exports account for about 20% of total U.S. agricultural production.<sup>1</sup> Because the United States plays such an important role in so many agricultural markets, its farm policy is often subject to intense scrutiny both for compliance with current WTO rules and for its potential to diminish the breadth or impede the success of future multilateral negotiations—in part because a farm bill locks in U.S. policy behavior for an extended period of time during which the United States would be unable to accept any new restrictions on its domestic support programs.

Omnibus U.S. farm legislation—referred to as the farm bill—is renewed every five or six years. Farm income and commodity price support programs have been a part of U.S. farm legislation since the 1930s.<sup>2</sup> Each successive farm bill usually involves some modification or replacement of existing farm programs. The current omnibus farm bill, the Agricultural Act of 2014 (P.L. 113-79; the 2014 farm bill), which was signed into law on February 7, 2014, made several substantial changes to the previous farm safety net of the 2008 farm bill.<sup>3</sup> Many of the new farm programs became operational for the current 2014 crop year. Most of the 2014 farm bill agricultural provisions will not expire until September 30, 2018, or with the 2018 crop year. Ultimately the current farm bill will either be replaced with new legislation, temporarily extended, or allowed to lapse and be replaced with “permanent law”—a set of essentially mothballed provisions for the farm commodity programs that date from the 1930s and 1940s.

The most recent U.S. notification to the WTO of domestic support outlays (made on December 8, 2014) is for the 2012 crop year, which was governed by farm programs of the 2008 farm bill.

## WTO Commitments May Influence Policy Choices

A potential major constraint affecting U.S. agricultural policy choices is the set of commitments made as part of membership in the World Trade Organization (WTO)<sup>4</sup>, with its various agreements governing agriculture and trade,<sup>5</sup> including dispute settlement.<sup>6</sup> With respect to disciplines governing domestic agricultural support, two WTO agreements are paramount—the Agreement on Agriculture (AoA)<sup>7</sup> and the Agreement on Subsidies and Countervailing Measures (SCM).<sup>8</sup>

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<sup>1</sup> CRS Report R43696, *Agricultural Exports and 2014 Farm Bill Programs: Background and Issues*.

<sup>2</sup> See CRS Report R43448, *Farm Commodity Provisions in the 2014 Farm Bill (P.L. 113-79)*.

<sup>3</sup> CRS Report R43076, *The 2014 Farm Bill (P.L. 113-79): Summary and Side-by-Side*.

<sup>4</sup> The WTO a global rules-based, member-driven organization dealing with the rules of trade between nations. As of June 26, 2014, the WTO included 160 members. See also CRS Report I10002, *The World Trade Organization at 20 (In Focus)*, by (name redacted).

<sup>5</sup> For a complete list of WTO agreements and their text, see WTO, *The Legal Texts* (Cambridge University Press and World Trade Organization, 1999); hereinafter referred to as *WTO Legal Texts*; available online at [https://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm](https://www.wto.org/english/docs_e/legal_e/legal_e.htm).

<sup>6</sup> See CRS Report RS20088, *Dispute Settlement in the World Trade Organization (WTO): An Overview*.

<sup>7</sup> See CRS Report RL32916, *Agriculture in the WTO: Policy Commitments Made Under the Agreement on Agriculture*.

<sup>8</sup> See CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*.

The AoA sets country-specific aggregate spending limits on the most market-distorting policies. It also defines very general rules covering trade among member countries. In general, domestic policies or programs found to be in violation of WTO rules may be subject to challenge by another WTO member under the WTO dispute settlement process. If a WTO challenge occurs and is successful, the WTO remedy likely would imply the elimination, alteration, or amendment by Congress of the program in question to bring it into compliance. Since most governing provisions over U.S. farm programs are statutory, new legislation could be required to implement even minor changes to achieve compliance.<sup>9</sup> As a result, designing farm programs that comply with WTO rules can avoid potential trade disputes.

This report provides a brief overview of the WTO commitments most relevant for U.S. domestic farm policy. A key question that policymakers ask of virtually every new farm proposal is, how will it affect U.S. commitments under the WTO? The answer depends not only on cost, but also on the proposal's design and objectives, as described below.

## **Agreement on Agriculture (AoA)**

Under the AoA, WTO member countries agreed to general rules regarding disciplines on domestic subsidies (as well as on export subsidies and market access). The AoA's goal was to provide a framework for the leading members of the WTO to make changes in their domestic farm policies to facilitate more open trade.

The WTO's AoA categorizes and restricts agricultural domestic support programs according to their potential to distort commercial markets. Whenever a program payment influences a producer's behavior it has the potential to distort markets (i.e., to alter the supply of a commodity) from the equilibrium that would otherwise exist in the absence of the program's influence. Those outlays that have the greatest potential to distort agricultural markets—referred to as amber box subsidies—are subject to spending limits.<sup>10</sup> In contrast, more benign outlays (i.e., which cause less or minimal market distortion) are exempted from spending limits under green box, blue box, *de minimis*, or special and differential treatment exemptions.<sup>11</sup>

The AoA contains detailed rules and procedures to guide countries in determining how to classify its programs in terms of which are most likely to distort production and trade; in calculating their annual cost, measured by the Aggregate Measure of Support (AMS) index; and in reporting the total cost to the WTO. Specifically, the WTO uses a traffic light analogy to group programs.

- **Green Box** programs are minimally or non-trade distorting and not subject to any spending limits.
- **Blue Box** programs are described as production-limiting. They have payments that are based on either a fixed area or yield, or a fixed number of livestock, and are made on less than 85% of base production. As such, blue box programs are also not subject to any payment limits.

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<sup>9</sup> For example, see CRS Report RL32571, *Brazil's WTO Case Against the U.S. Cotton Program*.

<sup>10</sup> These spending and subsidy commitments are detailed in each Member's country schedule. For more information, see CRS Report RL32916, *Agriculture in the WTO: Policy Commitments Made Under the Agreement on Agriculture*.

<sup>11</sup> WTO special and differential treatment exemptions are reserved for "developing" countries and are thus not relevant for evaluating U.S. domestic farm policy.

- **Amber Box** programs are the most market-distorting programs and are subject to a strict aggregate, annual spending limit. The United States is subject to a spending limit of \$19.1 billion in amber box outlays subject to certain *de minimis* exclusions.
- ***De minimis* exemptions** are domestic support spending that is sufficiently small—relative to either the value of a specific product or total production—to be deemed benign. *De minimis* exemptions are limited by 5% of the value of production—either total or product-specific.<sup>12</sup>
- **Prohibited (i.e., Red Box)** programs include certain types of export and import subsidies and non-tariff trade barriers that are not explicitly included in a country’s WTO schedule or identified in the WTO legal texts.<sup>13</sup>

These AoA classifications are described in more detail below in the section entitled, “Questions for Evaluating WTO Compliance of Domestic Farm Spending.” The most recent U.S. notification to the WTO of its domestic farm program spending is provided in the **Appendix**.

## **Agreement on Subsidies and Countervailing Measures (SCM)**

To the extent that domestic farm policy effects spill over into international markets, U.S. farm programs are also subject to certain rules under the Agreement on Subsidies and Countervailing Measures (SCM).<sup>14</sup> The SCM details rules for determining when a subsidy is “prohibited” (as in the case of certain export and import-substitution subsidies) and when it is “actionable” (as in the case of certain domestic support policies that incentivize overproduction and result in significant market distortion—whether as lower market prices or altered trade patterns).<sup>15</sup>

The key aspect of SCM commitments is the degree to which a domestic support program engenders market distortion. Based on precedent from past WTO decisions, several criteria are important in establishing whether a subsidy could result in significant market distortions:

- the subsidy constitutes a substantial share of farmer returns or covers a substantial share of production costs;
- the subsidized commodity is important to world markets because it forms a large share of either world production or world trade; and
- a causal relationship exists between the subsidy and adverse effects in the relevant market.

The SCM evaluates the “market distortion” of a program or policy in terms of its measurable market effects on the international trade and/or market price for the affected commodity:

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<sup>12</sup> In other words, general domestic support (not specific to any one commodity, such as rural infrastructure or extension) that is below 5% of the value of total agricultural production is deemed sufficiently benign that it does not have to be included in the amber box. Similarly, support for a specific commodity (such as sugar or dairy price support, marketing loan benefits, commodity storage payments, etc.) that is below 5% of that commodity’s value of production is deemed sufficiently benign that it does not have to be included in the amber box.

<sup>13</sup> The term “Red Box” is not actually used by the WTO, but is included here to complete the traffic light analogy.

<sup>14</sup> For details, see CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*.

<sup>15</sup> Part II: Prohibited Subsidies, Articles 3-4, and Part III: Actionable Subsidies, Articles 5-7, ASCM, *WTO Legal Texts*; available at [http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm](http://www.wto.org/english/docs_e/legal_e/legal_e.htm).

- did the subsidy displace or impede the import of a like product into the subsidizing member's domestic market;
- did the subsidy displace or impede the exports of a like product by another WTO member country other than the subsidizing member;
- did the subsidy (via overproduction and resultant export of the surplus) result in significant price suppression, price undercutting, or lost sales in the relevant commodity's international market; and
- did the subsidy result in an increase in the world market share of the subsidizing member?

For any farm program that is challenged under the SCM, a WTO dispute settlement panel will review the relevant trade and market data and make a determination of whether the particular program being challenged resulted in a significant market distortion.

Under WTO rules, challenged subsidies that are found to be prohibited by a WTO dispute settlement panel must be stopped or withdrawn "without delay" in accordance with a timetable laid out by the panel; otherwise the member nation bringing the challenge may take appropriate countermeasures. Similarly, actionable subsidies, if successfully challenged, must be withdrawn or altered so as to minimize or eliminate the distorting aspect of the subsidy, again as laid out by a WTO panel or as negotiated between the two disputing parties.

## **WTO Dispute Settlement Understanding (DSU)**

The WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) provides a means for WTO members to resolve disputes arising under WTO agreements. WTO members must first attempt to settle their dispute through consultations, but if these fail, the member initiating the dispute may request that a panel examine and report on its complaint. The DSU provides for Appellate Body review of panel reports, panels to determine if a defending member has complied with an adverse WTO decision by the established deadline in a case, and possible retaliation if the defending member has failed to do so.

As of April 8, 2015, 492 complaints have been filed under the DSU, with nearly one-half (232) involving the United States as a complainant or defendant.<sup>16</sup> The Office of the United States Trade Representative (USTR) represents the United States in WTO disputes.<sup>17</sup>

## **Questions for Evaluating WTO Compliance of Domestic Farm Spending**

The United States currently is committed, under the AoA, to spend no more than \$19.1 billion per year on amber box trade-distorting support. The WTO's AoA procedures for classifying and counting trade-distorting support are somewhat complex; however, four questions might be asked to determine whether a particular farm measure will cause total U.S. domestic support to be

<sup>16</sup> WTO dispute settlement data is available at [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm).

<sup>17</sup> See CRS Report RS20088, *Dispute Settlement in the World Trade Organization (WTO): An Overview*.

above or below the \$19.1 billion annual AMS limit. A subsequent fifth question may be asked to ascertain whether AoA-compliant outlays are also SCM-compliant.

1. Can the measure be classified as a “*green box*” *policy*—one presumed to have the least potential for distorting production and trade and therefore not counted as part of the AMS?
2. Can it be classified as a “*blue box*” *policy*—that is, a production-limiting program that receives a special exemption and therefore is also not counted as part of the AMS?
3. If it is a potentially trade-distorting “*amber box*” *policy*, can support still be excluded from the AMS calculation under the so-called 5% *de minimis exemption* (explained later in more detail) because total support is no more than 5% of either:
  - a. the value of total annual production if the support is non-product specific, or
  - b. the value of annual production of a particular commodity if the support is specific to that commodity?
4. If such support exceeds the *de minimis* 5% threshold (and thus cannot be exempted), when it is added to all other forms of non-exempt amber box support is total U.S. AMS still beneath the \$19.1 billion limit?
5. If a program is fully compliant with the AoA rules and limits, does its support result in price or trade distortion in international markets that, in turn, cause adverse effects upon another WTO member? If so, then it may be subject to challenge under SCM rules.

### **Question 1: Can This Measure Be Placed in the Green Box?**

No limits are placed on green box spending, since it is considered to be minimally or non-trade distorting. To qualify for exemption in the green box, a program must meet two general criteria, as well as a set of policy-specific criteria relative to the different types of agriculture-related programs.<sup>18</sup> The two general criteria are:

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

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

- A “**general service**” benefitting the agricultural or rural community in general cannot involve direct payments to producers or processors. Such programs can include research; pest and disease control; training, extension, or advisory services; inspection services, including for health, safety, grading, or standardization; marketing and promotion services, including information advice

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<sup>18</sup> The so-called green box is actually Annex 2 of the AoA, *WTO Legal Texts*.



- and promotion (but not spending for unspecified purposes that sellers could use to provide price discounts or other economic benefits to purchasers); and generally available infrastructure like utility, transportation, or port facilities, water supply facilities, or other capital works construction.
- Public acquisition (at current market prices) and **stockholding of products for food security** must be integral to a nationally legislated food security program and be financially transparent.
  - **Domestic food aid** is to be based upon clearly defined eligibility and nutritional criteria, be financially transparent, and involve government food purchases at current market prices.
  - **“Decoupled” income support** is to use clearly defined eligibility criteria in a specified, fixed base period; not be related in any way after the base period to (a) domestic or world prices, (b) type or volume of crop or livestock production, or (c) factors of production; and, further, not be contingent on any production in exchange for payments.
  - Government financial participation in an **income insurance or income safety net program** should define eligibility as agricultural income loss exceeding 30% of average gross income (or equivalent in net income terms) in the preceding three-year period (or preceding five-year period, excluding the highest and lowest years—the so-called Olympic average), with such payment compensating for less than 70% of the income loss in year of eligibility, and payments based solely on income, not production, price, or inputs. Total annual payments under this and natural disaster relief (see next paragraph) cannot exceed 100% of a producer’s total loss.
  - Payments (whether direct or through government crop insurance) for **natural disaster relief** are to use eligibility based on formal government recognition of the disaster. Payments are to be determined by a production loss exceeding 30% of production in the preceding three-year (or five-year Olympic average) period, apply only to losses of income, livestock, land, or other production factors, and cannot exceed the total replacement cost or require types/quantities of future production. Total annual payments under this and the income insurance or safety net measure cannot exceed 100% of a producer’s total loss.
  - **Structural adjustment through producer retirement** shall tie eligibility to clearly defined criteria in programs to facilitate producers’ “total and permanent” retirement from agricultural production or their movement into nonagricultural activities.
  - **Structural adjustment through resource retirement** shall be determined through clearly defined programs designed to remove land, livestock, or other resources from marketable production, with payments (a) conditioned on land being retired for at least three years and on livestock being permanently disposed; (b) not contingent upon any alternative specified use of such resources involving marketing agricultural production; and (c) not related to production type/quantity, or to prices of products using remaining productive resources.
  - **Structural adjustment provided through investment aids** must be determined by clearly defined criteria for programs assisting financial or physical restructuring of a producer’s operations in response to objectively demonstrated

structural disadvantages (and may also be based on a clearly defined program for “re-privatization” of agricultural land). The amount of payments (a) cannot be tied to type/volume of production, or to prices, in any year after the base period; (b) shall be provided only for a time period needed for realization of the investment in respect of which they are provided; (c) cannot be contingent on the required production of designated products (except to require participants not to produce a designated product); and (d) must be limited to the amount required to compensate for the structural disadvantage.

- **Environmental program payments** must have eligibility determined as part of a clearly defined government environmental or conservation program, and must be dependent upon meeting specific program conditions, including conditions related to production methods or inputs. Payments must be limited to the extra costs (or loss of income) involved with program compliance.
- **Regional assistance program payments** shall be limited only to producers in a clearly designated, contiguous geographic region with definable economic and administrative identity, considered to be disadvantaged based on objective, clearly defined criteria in the law or regulation, which indicate that the region’s difficulties are more than temporary. Such payments in any year (a) shall not be related to or based on type/volume of production in any year after the base period (other than to reduce production) or to prices after the base period; (b) where related to production factors, must be made at a degressive rate above a threshold level of the factor concerned; and (c) must be limited to the extra costs or income loss involved in agriculture in the prescribed area.

In summary, the above measures are eligible for placement in the green box (i.e., exempted from AMS) as long as they (1) meet general criteria one and two, above; and (2) additionally comply with any criteria specific to the type of measure itself. If these conditions are satisfied, no further steps are necessary; the measure is exempt.<sup>19</sup> *However, if not, then the next step is to determine whether it qualifies for the blue box exemption.*

## **Question 2: Can This Measure Be Placed in the Blue Box?**

No limits are placed on blue box spending, in part because it contains safeguards to prevent program incentives from expanding production. To qualify for exemption in the blue box,<sup>20</sup> a program must be a direct payment under a production-limiting program,<sup>21</sup> and must also either:

- be based on fixed areas and yields, or
- be made on 85% or less of the base level of production, or,

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<sup>19</sup> For examples of U.S. outlays on various green box programs, see the **Appendix** of this report which contains the most recent U.S. notification to the WTO of its domestic farm program spending.

<sup>20</sup> Article 6.5, AoA, *WTO Legal Texts*.

<sup>21</sup> An example of a production-limiting program is the now-abandoned U.S. target-price, deficiency-payment program that linked payments to land set-aside requirements. The target-price, deficiency-payment program was first established under the 1973 farm bill (the Agricultural and Consumer Protection Act of 1973; P.L. 93-86), and was terminated by the 1996 farm bill (The Federal Agriculture Improvement and Reform Act of 1996; P.L. 104-127). As a result, the United States only notified blue box payments under this program for the year 1995.

- if livestock payments, be made on a fixed number of head.

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

### Question 3: If Amber, Will Support Exceed 5% of Production Value?

The AoA states that developed country members (including the United States) do not have to count, when calculating their total AMS, the value of amber box programs whose total cost is small (or benign) relative to the value of either a specific commodity, if the program is commodity-specific, or the value of total production, if the program is not commodity-specific.<sup>22</sup> In other words, “amber box” (i.e., potentially trade-distorting) policies may be excluded under the following two *de minimis* exclusions.

- **Product-specific domestic support**, whereby it does not exceed 5% of the member’s “total value of production of a basic agricultural product during the relevant year.” Support provided through all of the measures specific to a product—not just a single measure in question—is tallied to determine whether the 5% level is exceeded. For example, the value of the 2012 U.S. corn crop was \$74.3 billion, and 5% of that was \$3.8 billion. This compares with corn-specific AMS outlays of \$2.7 billion. As a result, the entire \$2.7 billion was exempted from inclusion under the AMS limit for the marketing year 2012. In contrast, U.S. sugar support of \$1.454 billion for 2012 easily exceeded its 5% product-specific *de minimis* of \$184.8 million (based on total sugar value of \$3.7 billion) and, therefore, was counted against the AMS limit.
- **Non-product-specific domestic support**, whereby it does not exceed 5% of the “value of the Member’s total agricultural production.” All non-product-specific support is tallied to determine whether the 5% level is exceeded. For example, the value of 2012 U.S. agricultural production was notified to the WTO as \$396.6 billion. The 5% threshold for non-product-specific support was calculated as \$19.8 billion. The United States notified outlays of \$309.3 million for non-product-specific support in 2012. As a result, the entire \$309.3 million was exempted from inclusion under the AMS limit.

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

### Question 4: Does Total Annual AMS Now Exceed \$19.1 Billion?

Finally, all support that fails to qualify for an exemption is added for the year. If total U.S. AMS does not exceed \$19.1 billion, the WTO commitment is met.

<sup>22</sup> Article 6.4, AoA, *WTO Legal Texts*.

The 2014 farm bill includes a provision, Section 1601(d), that serves as a safety trigger for USDA to adjust program outlays (subject to notification being given to both the House and Senate agriculture committees) in such a way as to avoid breaching the AMS limit (**Figure 1** and **Figure 2**). Through 2012, the most recent year for which the United States has made notifications to the WTO, the United States has never exceeded its AMS limit. The closest approach was in 2000, when the United States notified a total AMS of \$16.8 billion.

## **Question 5: Does Domestic Support Result in Significant Market Distortion in International Markets?**

An additional consideration for WTO compliance—the SCM rules governing adverse market effects resulting from a domestic farm support program—comes into play when a domestic farm policy effect spills over into international markets. This is particularly relevant for the United States because it is a major producer, consumer, exporter, and/or importer of most major agricultural commodities, but especially of temperate field crops (which are the main beneficiaries of U.S. farm program support). If a particular U.S. farm program is deemed to result in market distortion that adversely affects other WTO members—even if it is compliant with all AoA commitments and agreed-upon spending limits—then that program may be subject to challenge under the WTO dispute settlement procedures (Brazil’s WTO case against U.S. cotton programs is a prime example of this).<sup>23</sup>

## **Conclusion**

The AoA’s structure of varying spending limits across the amber, blue, and green boxes is intentional. By leaving no constraint on spending in the green box while imposing limits on AMS spending, the WTO implicitly encourages countries to design their domestic farm support programs to be green-box-compliant.<sup>24</sup> Negotiations to further reform agricultural trade within the context of the WTO—referred to as the Doha Round of multilateral trade negotiations—began in 2001.<sup>25</sup> They are not expected to be completed in the near future. As lawmakers consider policy options, other countries will be evaluating not only whether, in their view, these options will comply with the U.S. commitments under the AoA, but also how they reflect on the U.S. negotiating position in the Doha Round of talks.

The U.S. objective is for negotiations to result in substantial reductions in trade-distorting support and stronger rules that ensure that all production-related support is subject to discipline, while preserving criteria-based “green box” policies that can support agriculture in ways that minimize trade distortions. At the same time, Congress might seek domestic farm policy measures that it can justify as AoA- and SCM-compliant.

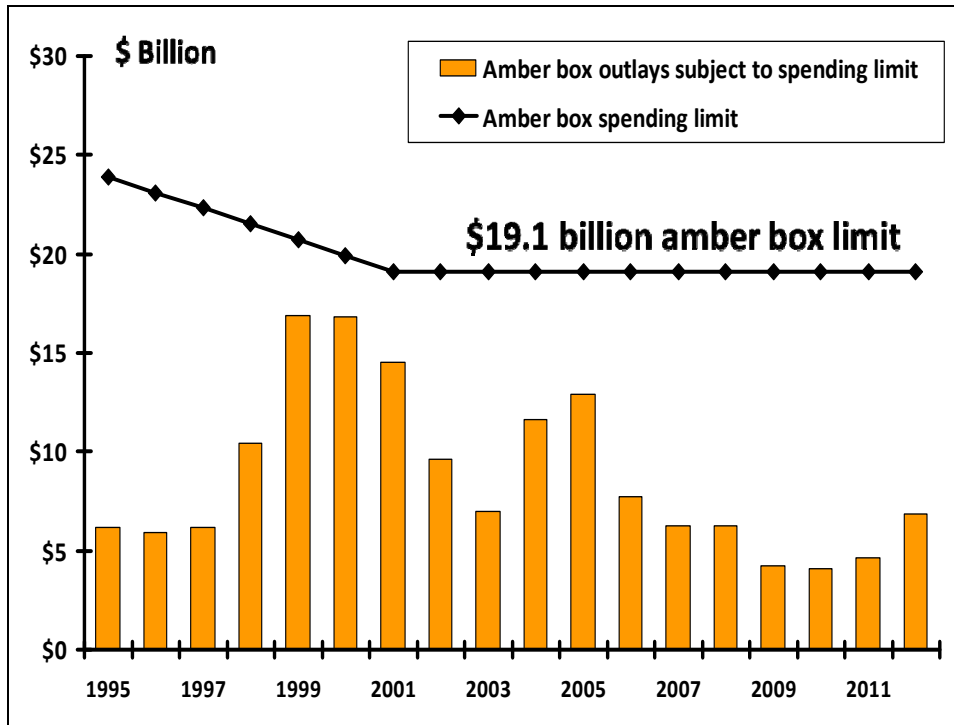
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<sup>23</sup> CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*.

<sup>24</sup> Zulauf, Carl and David Orden, *U.S. Farm Policy and Risk Assistance: The Competing Senate and House Agriculture Committee Bills of July 2012*, ICTSD Program on Agricultural Trade and sustainable development, Issue Paper No. 44, International Centre for Trade and Sustainable Development, Geneva, Switzerland, <http://www.ictsd.org>.

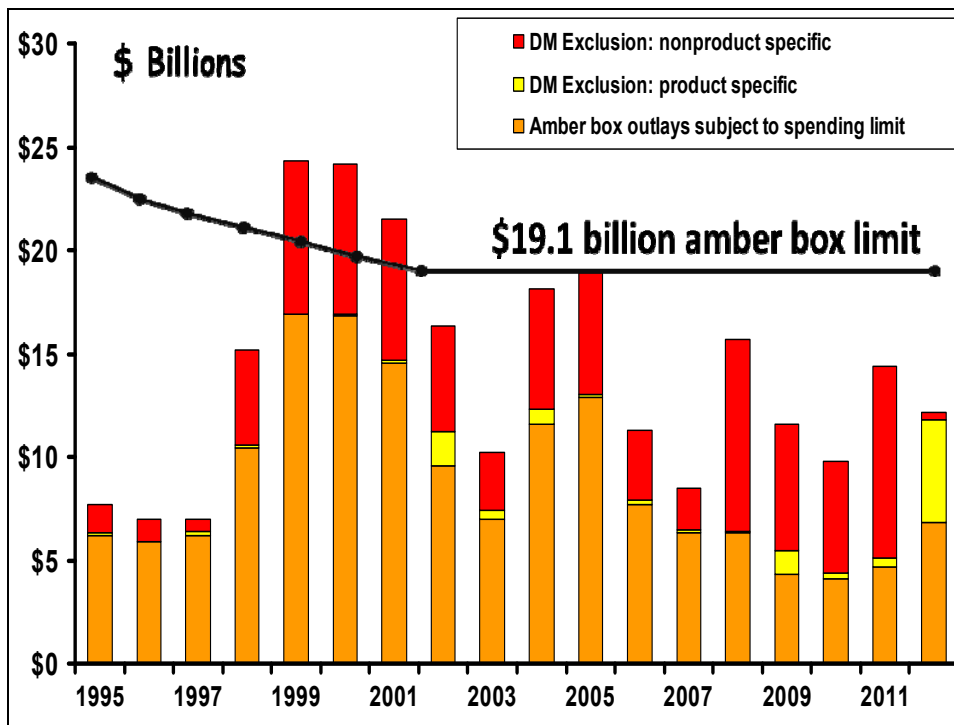
<sup>25</sup> For more information, see CRS Report RS22927, *WTO Doha Round: Implications for U.S. Agriculture*.

Figure 1. U.S. Amber Box Outlays Subject to AMS Spending Limit



Source: WTO, annual notifications of the United States through 2012.

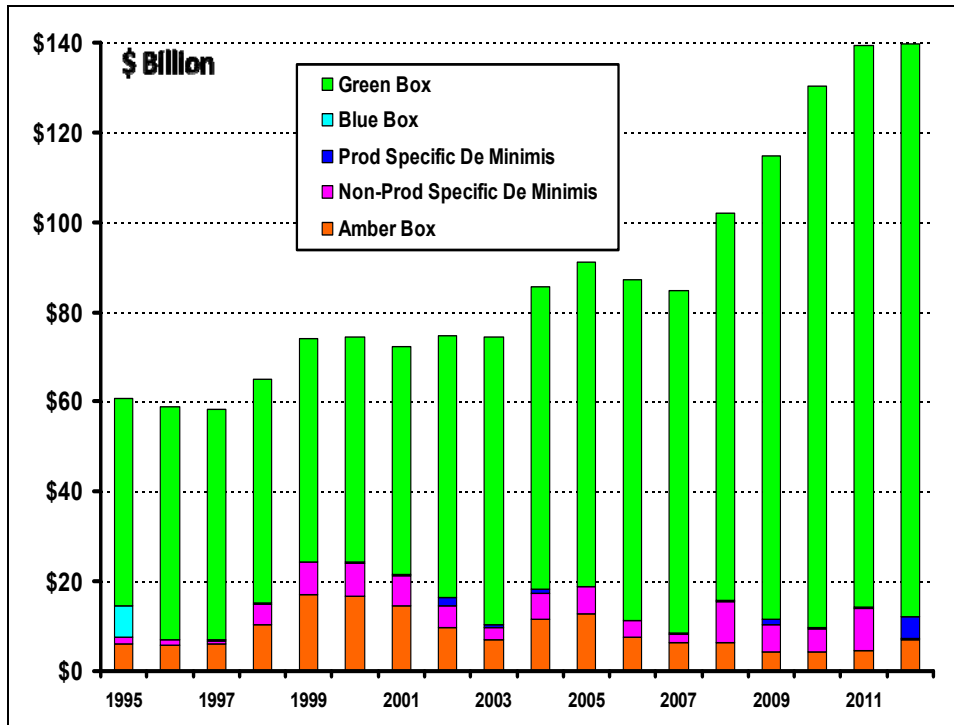
Figure 2. Total U.S. Amber Box Outlays Including *De Minimis* Exclusions



Source: WTO, annual notifications of the United States through 2012.

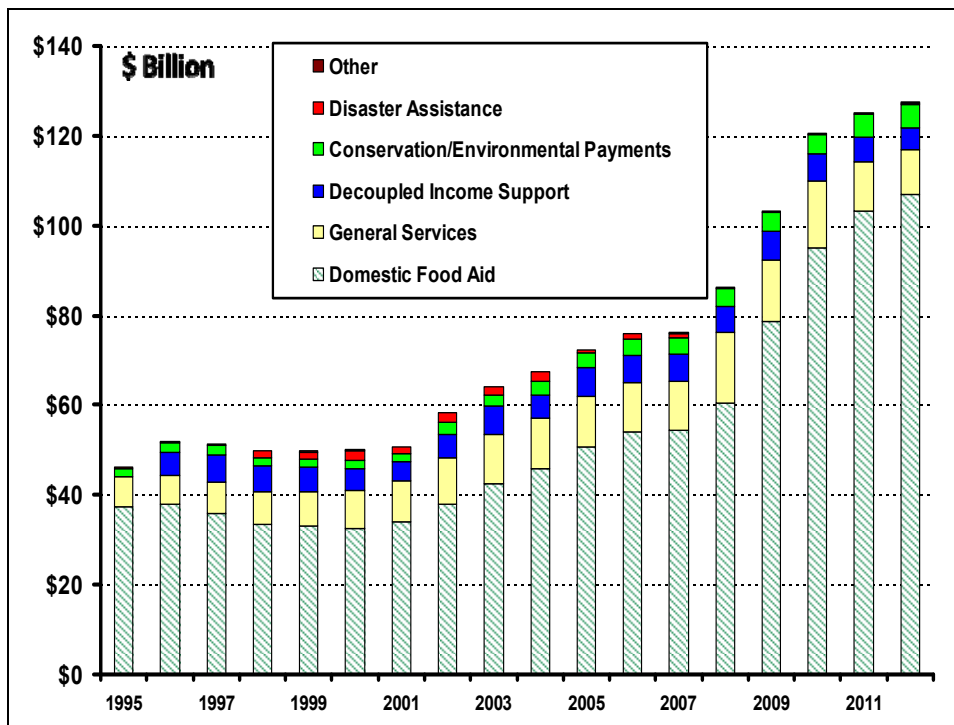
Notes: WTO notifications are available at [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S003.aspx](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S003.aspx).

Figure 3. U.S. Annual Notifications to the WTO, All Categories



Source: WTO, annual notifications of the United States through 2012.

Figure 4. U.S. Annual Green Box Notifications by Green Box Category



Source: WTO, annual notifications of the United States through 2012.

## **Appendix. Classification of U.S. Policies in 2012**

The last U.S. notification to the WTO was made on December 8, 2014, for the 2012 marketing year and the farm programs of the 2008 farm bill. Following are examples of how various U.S. domestic policies were classified in that notification, along with the associated values.<sup>26</sup>

### **Green Box Policies (\$127.5 Billion)**

The United States notified \$127.5 billion in green box outlays, including outlays under the following programs (**Figure 4**).

#### **General Services (\$10.3 Billion)**

- State programs for agriculture (\$2.4B)
- Risk Management Agency (RMA) total costs (\$1.5B) including:
  1. Risk Management Agency (RMA) administrative costs (\$0.08B)
  2. RMA A&O reimbursements (\$1.4B)
  3. RMA underwriting gains (\$0.0B)
- Farm Service Agency (FSA) & Natural Resources Conservation Service (NRCS) (\$1.0B)
- Agricultural Research Service (\$1.2B)
- Animal and Plant Health Inspection Service (APHIS) programs (\$1.1B)
- National Institute for Food and Agriculture (NIFA) programs (\$1.4B)
- Food Safety and Inspection Service (FSIS) meat and poultry inspection (\$1.0B)
- Agricultural Marketing Service (AMS) (\$0.3B)
- National Agricultural Statistics Service (NASS) (\$0.164B)
- Economic Research Service (ERS) (\$0.08B)
- Grain Inspection, Packers and Stockyards Administration (GIPSA) (\$0.04B)
- Trade Adjustment Assistance for Farmers (TAA for Farmers) (\$0.04B)

#### **Domestic Food Aid (\$106.8 Billion)**

- Supplemental Nutrition Assistance Program (SNAP) (\$80.4B)
- Child nutrition programs (\$18.3B)
- Special supplemental food program for women, infants, children (WIC) (\$6.8B)
- Section 32 food purchases (\$0.8B)

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<sup>26</sup> “U.S. Domestic Support Notification for Marketing Year 2012,” G/AG/N/USA/100, WTO, December 8, 2014.

- Other food assistance programs (\$0.4B)

### **Decoupled Income Support (\$4.8 Billion)**

- Direct payments (\$3.8B)
- Tobacco quota buyout payments (\$1.0B)

### **Payments for Relief from Natural Disasters (\$0.344 Billion)**

- Non-insured crop disaster assistance program (NAP) payments (\$0.342B)

### **Structural Adjustment Through Investment Aids (\$0.135 Billion)**

- Farm credit programs (\$0.131B)

### **Environmental Payments (\$5.2 Billion)**

- Conservation Reserve Program (CRP) payments (\$1.8B)
- Environmental Quality Incentives Program (EQIP) (\$1.4B)
- Conservation Stewardship Program (\$0.9B)
- Wetland Reserve Program (\$0.6B)
- Farmland Protection Program (\$0.145B)
- Grassland Reserve Program (\$0.065B)

### **Blue Box Policies (\$0)**

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

### ***De Minimis* Exclusions (\$5.3 Billion)**

- Product-specific *de minimis* exclusions totaled \$5.0 billion in 2012, including certain federal subsidies for commodity-specific crop insurance premiums that were below 5% of the value of production for those specific commodities.
- Non-product-specific *de minimis* exclusions of \$0.3 billion in 2012 were well below 5% of the total value of U.S. agricultural production of \$396.6 billion.

### **Amber Box Policies (\$6.9 Billion)**

Prior to the *de minimis* exclusions, U.S. amber box notifications totaled \$12.1 billion, including \$11.8 billion of product-specific outlays and \$0.3 billion of non-product-specific outlays. However, \$5.0 billion in product-specific support and all non-product-specific support of \$0.3 billion were exempted from the AMS limit under the *de minimis* exclusions, leaving \$6.9 billion in amber box support subject to the \$19.1 billion limit.



### Product-Specific Support (\$11.8 Billion)<sup>27</sup>

- Commodity-specific crop and revenue insurance subsidies (\$7.0B)
- Dairy price support (\$2.9B)<sup>28</sup>
- Sugar price support (\$1.5B)
- Milk Income Loss Contract (MILC) (\$0.4B)
- Marketing loan benefits, including gains from repaying marketing loans at less than the loan rate and loan deficiency payments (\$0.0B)
- Commodity loan-related interest subsidies (\$0.087B)
- Special cotton marketing payments (\$0.060B)<sup>29</sup>
- Average Crop Revenue Election (ACRE) program (\$0.003B)
- Disaster Assistance Programs LIP, LFP, ELAP, and TAP (\$0.0B)<sup>30</sup>

### Non-Product Specific Support (\$0.3 Billion)<sup>31</sup>

- Irrigation subsidies in western states (\$0.167B)
- Grazing programs (\$0.054B)
- Renewable Energy for America Program (REAP) (\$0.068B)
- Biomass Crop Assistance Program (BCAP) (\$0.0B)
- Supplemental Crop Revenue Assurance (SURE) program (\$0.0B)
- Counter-cyclical payments (\$0.0B)

## Author Contact Information

(name redacted)  
Specialist in Agricultural Policy  
/redacted/@crs.loc.gov, 7-....

<sup>27</sup> Of which \$5.0 billion was exempted under the product-specific *de minimis* exclusion as described above.

<sup>28</sup> AMS is a measure of both actual and implied support and not necessarily a measure of actual budget outlays. In the case of both dairy and sugar programs, U.S. support—provided primarily in the form of import tariff quotas—is measured by applying the difference between higher U.S. support prices and lower international prices to U.S. domestic production.

<sup>29</sup> These are upland cotton economic adjustment assistance (EAOA) payments (\$60.2 million).

<sup>30</sup> LIP is the Livestock Indemnity Program; LFP is the Livestock Forage Disaster Program; ELAP is the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program; and TAP is the Tree Assistance Program.

<sup>31</sup> Of which the entire amount was exempted under the non-product-specific *de minimis* exclusion as described above.

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