Order Code RL31841

Report for Congress

Received through the CRS Web

Agricultural Trade Issues in the 108th Congress

April 3, 2003

Charles E. Hanrahan, Geoffrey S. Becker, Remy Jurenas, and Randy Schnepf

Resources, Science, and Industry Division

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Agricultural Trade Issues in the 108th Congress

Summary

Agricultural exports contribute to the prosperity of the U.S. agricultural economy. Their value is projected at $57 billion for FY2003, and they are expected to grow over the long term. These exports are the equivalent of about a quarter of the gross income of U.S. farmers and generate both farm and nonfarm employment. U.S. agricultural imports, expected to reach $43 billion in FY2003, are fostered by low average U.S. tariffs, the relative strength of the U.S. dollar, and consumer tastes and preferences for high value food products, the largest component of imports. A large share of agricultural imports compete against U.S. products, but they also generate economic activity in the U.S. economy.

Although many world economic and other factors influence exports, many farm groups believe that U.S. agriculture's future prosperity also depends on such U.S. trade policies as 1) negotiating improved market access for U.S. products bilaterally, regionally, and multilaterally; 2) assuring market access and consumer acceptance at home and abroad for products of agricultural biotechnology; 3) assuring that China adheres to its World Trade Organization (WTO) agricultural market access commitments; and 4) resolving contentious commodity trade disputes. Some farm groups, mainly producers of import-sensitive commodities, question opening U.S. markets to foreign competition. Agricultural trade issues that are being or could be considered during the 108th Congress include:

Free trade agreements (FTAs) with Chile and Singapore, which Congress will take up according to expedited or fast track procedures in the Trade Act of 2002 (P.L. 107-210). The 2002 Trade Act also requires congressional-executive branch consultation on trade negotiations, which currently include negotiation of FTAs with 12 other countries or regional groups, negotiations with 34 western hemisphere countries for the Free Trade Area of the Americas (FTAA), and multilateral trade negotiations in the WTO.

Biotechnology regulations in other countries, especially in the EU, which will affect U.S. commodity exports.

China's implementation of its WTO market opening commitments for agriculture, which has been slow and uncertain, and has failed to meet expectations of U.S. agricultural exporters.

Country-of-origin labeling for meats, fresh produce, seafood and peanuts, established by the 2002 farm bill, but whose implementation has raised questions about benefits versus compliance costs.

Other trade issues of interest to the 108th Congress include **commodity trade disputes** over cotton, wheat, meat and poultry, and sweeteners; the scope of restrictions that should apply to **agricultural sales to Cuba**; and funding for **U.S. agricultural export and food aid programs.**

This report will be updated.

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Agricultural Trade Issues in the 108th Congress

Introduction and Overview*

The increasing globalization of markets, including in agriculture, has brought not only opportunity, but also uncertainty, to U.S. farmers and ranchers, rural communities, and the businesses that sell to them and market their products. Up until 30 or 40 years ago, clearer distinctions could be made between domestic and foreign markets for the products of agriculture – and early federal farm policy reflected this distinction. Farm support programs were initially developed primarily to support farm income and commodity prices through government spending. These programs were often combined with supply management measures that included import restrictions. U.S. export competitiveness and impacts on world trade relations and patterns were less important considerations.

Mounting productivity has enabled U.S. agriculture to produce far more than needed simply to meet domestic demand, which is relatively stable. Foreign markets, once viewed more as an outlet for surplus production, are increasingly becoming the foundation of agriculture's prosperity (see "U.S. Agricultural Exports," below). A robust world economy and strong demand (particularly in the developing world where consumer incomes and populations are rising) suggest strong export prospects and positive farm returns. Conversely, when exports decline, farm income suffers – as occurred after 1998 when the Asian financial crisis signaled the start of a wider recession that hurt U.S. agricultural exports. (Congress subsequently provided billions of dollars in federal farm aid to bolster farm incomes.)

Even when world economic conditions are favorable, U.S. agriculture enters the global marketplace facing stiff competition from foreign exporting nations like Canada, Australia, Argentina, and Brazil, where production costs may be competitive with those in the United States, and the European Union (EU) and China, where strong government support in the form of subsidies and/or other aids also play an important and often trade-distorting role, according to many analysts. Furthermore, the EU and China, along with others like Russia, Japan and Korea, have imposed what U.S. interests consider to be unjustified sanitary and phytosanitary (SPS) and technical measures (labeling rules, segregation of imported from domestic product, etc.), high tariffs, and other import barriers that choke access to their markets. These countries are, and are expected to remain, leading customers for U.S. farm products – not only bulk grains but, increasingly, higher-value products like meats, poultry, fruits and vegetables, and processed food products. Furthermore, their views about agricultural markets influence the views of policymakers in developing countries.

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* Prepared by Charles E. Hanrahan, Senior Specialist in Agricultural Policy, and Geoffrey S. Becker, Specialist in Agricultural Policy, Resources, Science, and Industry Division.

Farm groups and agribusinesses are well aware that many world factors influence U.S. agricultural exports. They count on lawmakers and Administration officials to develop and promote U.S. trade policies that (1) aggressively reduce foreign-imposed barriers (including tariffs, non-tariff barriers, domestic subsidies, and export subsidies) to U.S. farm products, (2) hold other countries accountable for commitments they have already made in existing trade agreements, (3) resolve festering agricultural disputes with major trading partners, and (4) fully use USDA export and food aid programs.

Some U.S. farm groups point out that, by maintaining barriers to U.S. imports and their own high export subsidies and internal farm supports, not all countries have fully honored existing trade agreements. Such concern has on occasion dampened U.S. agriculture's enthusiasm for entering into new trade agreements. Even when the United States wins a case in dispute settlement, as it did in 1997, when the World Trade Organization (WTO) ruled in favor of the United States that the EU cannot ban, without scientific justification, beef produced with hormones, a country may not comply with the decision. In the beef case, the United States was authorized to impose retaliatory tariffs but U.S. beef still cannot enter the EU. Although U.S. officials say more trade disputes are resolved favorably than unfavorably (often through negotiation at lower levels rather than formal dispute resolution), there is a perception among some farmers that established international trading rules have not always worked to their benefit.

Moreover, some U.S. producer groups (particularly those representing import-sensitive commodities) have pressed for continued protection of their own commodities, and for more restrictions on foreign farm and food imports into the United States. The U.S. average tariff on agricultural imports (12%) is much lower than the global average tariff (62%) imposed on similar imports. However, the United States along with other developed countries restricts the entry of "import-sensitive" agricultural products to protect certain domestic producers from foreign competition and the economic adjustments that such imports might entail. U.S. tariff-rate quotas allow zero or low duty access for specified amounts of foreign beef, sugar, peanuts, cotton, tobacco, and dairy products. Imports above the quota may enter, but face prohibitively high tariffs. This usually makes such imports uncompetitive in the U.S. market. Safeguards (involving the temporary use of higher tariffs and/or quotas) allow producers of an affected commodity or product sector additional time to adjust to increased import competition. Such adjustments will be more severe in areas whose production must compete with imported products. In recent years, the United States has imposed safeguards on imports of lamb meat and wheat gluten to allow U.S. producers of those products time to adjust to foreign competition.[*]

Foreign trading partners argue that such efforts are ill-advised because free trade must flow in all directions, including into the United States. In some cases, other countries are using trade negotiations and, sometimes, dispute settlement procedures

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[*] For a discussion of trade protection using safeguards and adjustment issues, see CRS Report RL31296, *Trade Remedies and Agriculture*; and CRS Report RL30610, *Vital Wheat Gluten: U.S. Industry Performance and Foreign Trade Implications of Section 201 Quotas*.

in the WTO, to enhance their access to the U.S. market for agricultural products, or to reduce competition in third-country markets from subsidized U.S. production. For example, both the lamb and wheat gluten safeguard actions were successfully challenged by other WTO member countries in WTO dispute settlement and were not renewed by the United States. More recently, in September 2002, Brazil initiated a case at the WTO against certain aspects of the U.S. cotton program.

Many developing countries are particularly concerned about what they see as limited access to the U.S. market for the above import-sensitive and other commodities. Such countries also see high domestic farm supports in richer countries like the United States and EU member states as trade-distorting and are seeking substantial reductions in such support in multilateral negotiations.

It is within this context of competing U.S. agricultural interests and other countries' concerns, that agricultural trade issues are likely to be taken up in legislation, congressional-executive branch consultations on trade negotiations, or in oversight hearings during the 108th Congress. Among the most prominent are the following, which are discussed in more detail later in this report:

Agriculture in Bilateral and Regional Free Trade Agreements. Unique to free trade agreements (FTAs), as illustrated by the North American Free Trade Agreement (NAFTA), are provisions designed to fully liberalize trade (e.g., reduce and eliminate tariffs and quotas) between partners within an agreed- upon time period. Provisions affecting agricultural trade are found in two bilateral FTAs the Bush Administration concluded with Chile and Singapore late in 2002. Agriculture also will likely prove to be a contentious issue in negotiating other FTAs the Administration has initiated, including with Australia. While some agricultural commodity groups and food product manufacturers welcome the market openings these agreements may provide, producers of import-sensitive commodities (e.g., sugar, dairy products, meats) will carefully monitor and seek to shape those provisions that affect them.

The Administration also has placed a high priority on negotiating an agreement to remove all trade barriers within the Western Hemisphere. The Free Trade Area of the Americas (FTAA) is intended to go beyond NAFTA to encompass all trade and services among all of the region's countries (except Cuba), and eventually supersede both NAFTA and regional trading agreements, including the free trade agreement the United States has just negotiated with Chile and the FTA being negotiated with Central America. Crafting rules for liberalizing agricultural trade and negotiating the fine details among the region's 34 countries by 2005 will be difficult and contentious.

Agricultural Negotiations in the World Trade Organization. The United States is engaged in a new round of multilateral trade negotiations, one of whose aims is further liberalization of global agricultural trade. According to the declaration agreeing to a new trade round, the objectives for agriculture are to substantially improve market access for agricultural products, reduce and phase out export subsidies, and substantially reduce trade-distorting domestic support. Most U.S. agricultural interest groups support the inclusion of agriculture in a broader multilateral trade round. These groups believe that trade-offs possible in a

comprehensive negotiation would result in improved market prospects for U.S. agricultural exports. Others, such as producers of import-sensitive crops, who feel disadvantaged by previous trade agreements (e.g., NAFTA) or threatened by possible new agreements, are not as enthusiastic about U.S. participation in a new round. The agricultural negotiations have important implications for farm bill programs that provide price and income support to farmers and for export and food aid programs. There are also important differences in negotiating positions among WTO member countries, especially between the United States and the European Union, and between those two WTO members and the developing countries.

Biotechnology and Agricultural Trade. Differences between the United States and its trading partners over genetically engineered (GE) crops and food products that contain or are derived from them pose a potential threat to, and in some instances have already disrupted, U.S. agricultural trade. Corn and soybean exports are the most seriously threatened crops. Underlying the conflicts are pronounced differences, reflected in consumer attitudes and regulatory systems, between the United States and several important trading partners about GE products and their potential health and environmental effects.

China and U.S. Agriculture. There is mounting concern from U.S. producer groups, Administration officials, and other trading partners that China has been slow to implement, only partially implemented, or in some instances has failed to comply with agricultural trade commitments made under recent international trade agreements. The speed and manner with which China implements its trade commitments are critical to the development of U.S.-China agricultural trade. While U.S. agriculture and trade officials have been working to resolve these differences, progress has been slow.

Country-of-Origin Labeling. The 2002 farm bill (P.L. 107-171) soon will require many food stores to provide country-of-origin labeling (COOL) on fresh fruits, vegetables, red meats, seafood, and peanuts. Proponents of COOL argue that U.S. consumers have a right to know the origin of their food, particularly during a period when food imports are increasing, and will continue to increase under both existing and future trade agreements, and when there are concerns about food safety. Critics of the new law, however, argue that such labeling does not increase public health protection by telling consumers which foods are safer than others: all food imports already must meet equivalent U.S. food safety standards, which are enforced vigorously by U.S. officials at the border and overseas. Scientific principles, not geography, must be the arbiter of safety, they add. Some critics are urging the 108th Congress to revisit the new labeling law, on the grounds that implementation will be extremely costly and hinder rather than help U.S. producers' competitive advantage. Proponents maintain that the expected benefits to U.S. farmers, ranchers, and consumers will outweigh implementation and compliance costs.

Agricultural Exports to Cuba. U.S. policy is to exempt commercial sales of agricultural and medical products from U.S. unilateral sanctions imposed on foreign countries, subject to specified conditions and prohibitions. Debate continues, though, among policymakers on the scope of restrictions that should apply to agricultural sales to Cuba.

Bilateral Trade Disputes. The United States is engaged in a variety of trade disputes involving individual countries. The outcome of a number of these could prove critical to future application and recognition of WTO farm subsidy rules, dispute settlement procedures, and other world trade issues of importance to U.S. agriculture. Among the disputes are:

- A WTO case, instituted in September 2002, by ***Brazil against certain aspects of the U.S. cotton program***. Subsequent consultations between the United States and Brazil in December and January failed to resolve the dispute. Continuation of the WTO dispute settlement process could lead to a "final" panel decision for or against the complaining country. Resolution of the case in Brazil's favor could result in WTO recommendations concerning implementation of U.S. cotton program provisions. Non-compliance with such provisions on the part of the United States could result in compensation or possible limited trade sanctions.

- A ***U.S. complaint that Canadian wheat trading*** practices, particularly the export practices of the Canadian Wheat Board (CWB), are inconsistent with Canada's WTO obligations and disadvantage U.S. wheat exporters in Canadian and international markets. Canada maintains that Canadian import practices and the CWB wheat export practices comply fully with international trade rules and its WTO obligations. Successful resolution of this dispute in favor of the United States could result in greater competitiveness for U.S. wheat vis-a-vis Canadian wheat in international markets and in U.S. wheat having improved access to the Canadian market.

- ***Import barriers by Russia, Mexico, the EU, and Japan, affecting U.S. meat and/or poultry exports***. The United States is one of the world's leaders in meat and poultry trade. Meat and poultry products are among the fastest growing components of U.S. agricultural exports. However, at the same time that the industries' reliance on foreign markets is increasing, countries have instituted barriers that have disrupted exports, threatened future growth, and heightened trade tensions.

- Longstanding ***sweetener trade disputes between the United States and Mexico***. Mutual recognition that NAFTA sugar provisions have not worked prompted U.S. and Mexican negotiators to intensify efforts in mid-2002 to resolve two key issues: market access for Mexican sugar in the U.S. market, and market access and sales of U.S. high fructose corn syrup in Mexico. However, talks have been stalled.

Appropriations for Agricultural Export and Food Aid Programs. Congress is currently considering FY2004 appropriations for USDA's international activities. At issue are funding levels for agricultural export subsidies, export market development programs, export credit guarantees, and foreign food aid. Congress and the Administration have been at odds over the use of Commodity Credit Corporation

(CCC) funds to finance food aid programs and over the Administration's decision in 2003 to begin phasing out food aid based on surpluses.

U.S. Agricultural Exports

Agricultural exports, which totaled $53.5 billion in FY2002, are important to both the farm and non-farm economy.[*] The U.S. Department of Agriculture (USDA) estimates that the share of U.S. production volume exported is 43.5% for wheat, 53.3 % for rice, 20% for corn, 43.1 % for soybeans and products, and 45% for cotton. An estimated 25% of gross farm income comes from exports. According to USDA, each dollar received from agricultural exports (in 2001) stimulates another $1.47 in supporting non-farm activities. Agricultural exports generated an estimated 740,000 full-time civilian jobs, including 444,000 jobs in the non-farm sector. Agricultural exports account for 7.36% of U.S. merchandise exports and are the third largest component of such exports after electrical machinery (9.88%) and vehicles (7.45%).[**] U.S. agricultural trade has consistently registered a positive, though recently declining, balance.

Nearly every state exports agricultural commodities. In FY2001, the leading agricultural exporting states were (in order) California, Texas, Iowa, Kansas, Illinois, Nebraska, Minnesota, Washington, Indiana, and North Carolina. These 10 states accounted for nearly 60% of the total value of U.S. agricultural exports.

After growing rapidly in the 1970s, U.S. agricultural exports reached a high of $43.8 billion in FY1981, but then declined by 40% to $26.3 billion by FY1986. A decade later, exports had recovered and reached a new peak of nearly $60 billion (FY1996), but then began a decline that dipped to $49 billion by FY1999. Main reasons for the decline were continuing financial turmoil in East and Southeast Asian markets, and increased competition for corn, wheat, and soybeans in global markets. Exports since then have recovered, rising to $52.7 billion for FY2001, and an estimated $53.5 billion in FY2002. USDA currently forecasts FY2003 export value at $57 billion.

The commodity composition of U.S. agricultural exports has changed over time. For years, bulk commodities such as grains, oilseeds, and cotton were the mainstay of U.S. agricultural exports. Since FY1991, however, higher value products have accounted for a growing share of total agricultural exports. These higher value exports, which include intermediate products such as wheat flour, feedstuffs, and vegetable oils and consumer-ready products such as fruits, nuts, meats, and processed foods, accounted for 65% of the total value of U.S. agricultural exports in FY2001.

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[*] Unless otherwise noted, data on U.S. agricultural trade in this report, including estimates of the contribution of agricultural exports to non-farm output and employment, estimates of state shares of agricultural exports, and the commodity composition of U.S. agricultural exports and imports, are from USDA's Economic Research Service. These data can be found at: http://www.ers.usda.gov/Topics/View.asp?T=104200.

[**] U.S. Department of Commerce. U.S. Census Bureau. *Statistical Abstract of the United States: 2002*, 122nd edition. Table 1284, p. 800.

Many variables interact to determine the level of U.S. agricultural exports: income, population growth, and tastes and preferences in foreign markets; U.S. and foreign production and commodity prices; and exchange rates. U.S. agricultural export and food aid programs, domestic farm policies that affect output and price, and trade agreements with others also influence the level of U.S. agricultural exports.

U.S. Agricultural Imports

The United States is also a major importer of agricultural commodities and food products. USDA classifies these as either non-competitive or competitive imports. Non-competitive products include primarily tropical products (coffee, cocoa, bananas, rubber, and spices) that generally are not produced domestically. Imports that compete against domestic output include red meats (primarily beef), fruits and juices, vegetables and preparations, wine and beer, certain grains and feeds, certain oilseeds, sugar and related products, and dairy products. USDA estimates the import share of all U.S. food consumption was 8.8% in 2000. Agricultural imports have risen by 83% over the last decade, from $22.7 billion in FY1991 to $41 billion in FY2001. Factors contributing to this growth in import demand include the extended U.S. economic expansion during this period, low commodity prices, the strong U.S. dollar which made imports cheaper, and the effects of trade agreements. Non-competitive imports (about $6.6 billion) accounted for 17% of all agricultural imports in FY2001. The value of competitive imports was nearly $33 billion (83% of the total).

Though a large share of agricultural imports–about 80% on average of total agricultural imports–compete against U.S. products, they also generate economic activity in the U.S. economy. These imports provide additional income to, and increased employment at, businesses involved in food processing and in providing transportation, trade, and related services. Consumers also benefit from agricultural imports if they result in lower prices, and from a wider choice of products and off-season availability of some foods, particularly fruits and vegetables. (For more information see CRS Report 98-253, *U.S. Agricultural Trade: Trends, Composition, Direction, and Policy*.)

Agriculture in Bilateral Free Trade Agreements[*]

Issue

Unique to free trade agreements (FTAs), as illustrated by the North American Free Trade Agreement (NAFTA), are provisions designed to liberalize trade by reducing and eliminate tariffs, quotas, and nontariff barriers) between partners within an agreed- upon time period. Provisions affecting agricultural trade are found in two bilateral FTAs the Bush Administration concluded with Chile and Singapore late in 2002. Agriculture also will likely prove to be a contentious issue in negotiating other FTAs the Administration has initiated. While some agricultural commodity groups and food product manufacturers welcome the market openings these agreements may provide, producers of import-sensitive commodities (e.g., sugar, dairy products, meats) will carefully monitor and seek to shape those provisions that affect them. Producers are concerned about the transition periods before agricultural products would be granted free access into the other country's market, and about rules of origin, safeguards against import surges, and the terms under which sanitary and phytosanitary (SPS) rules are applied.

Background and Analysis

In 2002, U.S. agricultural exports to the 14 FTA candidate countries (including Chile and Singapore) totaled $5.0 billion, and accounted for almost 9% of all U.S. agricultural exports. Half of these sales were to the five Central American countries, a growing U.S. market. Combined U.S. agricultural imports from these 14 countries totaled $5.2 billion, and represented over 12% of all agricultural imports. Imports from the Central American candidates totaled $1.9 billion (more than one third of the import value entering from all FTA candidates). The largest single country supplier was Australia (selling $1.9 billion in farm goods), followed by Chile ($1.2 billion).

Chile. In the Chile FTA, negotiating the agricultural provisions – especially the terms of market access for sensitive farm products and the application of some SPS rules – proved to be among the most contentious issues. These were resolved when top trade officials from both countries became involved in the process to bring the negotiations to a conclusion. Both the United States and Chile agreed to phase out tariffs — the primary means of border protection — on a substantial portion of agricultural products traded between them by 2007, but compromised to adopt a 12-year transition period before each market is fully open to import-sensitive products entering from the other country. The market access provisions will apply to all traded merchandise — no agricultural product is excluded. The agreement eliminates the use of export subsidies on agricultural trade between both countries, but allows the United States to respond if third countries use subsidies to displace U.S. products in the Chilean market. It also includes an agricultural safeguard provision sought by the United States to protect agricultural producers from sudden surges in Chilean imports. Both sides also have committed to resolve outstanding

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[*] Prepared by Remy Jurenas, Specialist in Agricultural Policy, Resources, Science, and Industry Division.

SPS issues that have, for example, limited U.S. sales of meat products and some fruits to Chile.

The U.S. Trade Representative (USTR) states the FTA's provisions will grant duty-free status to more than 75% of U.S. agricultural exports (valued at $111 million in 2002) to Chile within 4 years. Such treatment will apply to U.S. pork and products, beef and products, soybeans and soybean meal, durum wheat, feed grains, potatoes, and processed food products (i.e., french fries, pasta, distilled spirits and breakfast cereals). Chilean tariffs on all other products will be phased out within 12 years. The agreement requires Chile to phase out with respect to imports from the United States its price-band system designed to protect domestically-produced wheat, wheat flour, vegetable oils, and sugar. Chile also committed to recognizing the U.S. meat grading system – allowing for the sale of U.S. beef and pork products with the USDA prime and choice labels in that market.

Chile views improved market access for its agricultural products to the large and growing U.S. market as important to its economic growth, because agricultural exports ($1.2 billion in 2002) represent about one-third of Chile's total exports to the United States. Its negotiators sought immediate reductions in U.S. tariffs on horticultural and other products, as well as changes in how U.S. anti-dumping and countervailing rules are applied. U.S. producers of apricots, mushrooms, cling peaches, fruit juices, and other horticultural products, however, asked to be excluded from the FTA's coverage or sought long transition periods before tariffs on their products were eliminated. According to Chile's Foreign Minister, the agreement grants 95% of Chile's exports duty-free status to the U.S. market within four years. With wine an important Chilean export, Chile agreed to reduce its tariff on wine imports to the lower U.S. level, after which both countries will eliminate tariffs on wine. Negotiating Chile's terms of access for agricultural products viewed as "sensitive" by some segments of U.S. agriculture reportedly were difficult to conclude. Details that took time to resolve in creating tariff-rate quotas (TRQs) for dairy, sugar, and horticultural products were the size of each quota, the pace at which the over-quota tariff rate is phased out, the growth rate for each quota created, and whether the within-quota tariff would be low or zero. Access for sugar reportedly will depend on Chile (now a sugar importer) becoming a net exporter (i.e., produces a surplus available for export).

Negotiations on SPS barriers proceeded along a track parallel to the market access talks, but the FTA agreement appears to leave them unresolved. With U.S. exporters having faced SPS obstacles in recent years in selling pork, beef, dairy and poultry products, and certain fruit to the Chilean market, the United States pressed to resolve outstanding SPS issues so that they would not affect U.S. exporters' access to the Chilean market once the FTA takes effect. Negotiators apparently did not resolve SPS issues relating to U.S. beef and pork exports. The final text reportedly does not include language sought by the United States that Chile would accept the U.S. meat inspection system as equivalent to its own. U.S. trade officials indicated last December that the Administration will not submit the FTA to Congress for approval until Chile accepts the U.S. position.

The private-sector Agricultural Policy Advisory Committee (APAC) on February 28, 2003, reported to USTR that the FTA with Chile "will improve U.S.

exports of agricultural products by opening the Chilean market and providing reciprocal access for U.S. products, [and] ... provides a sensible timetable for the elimination of agricultural tariffs for import sensitive products including a gradual phase out of tariffs and an import safeguard." Some of the commodity advisory committees, though, in their separate reports raised concerns about some provisions of the FTA. They complained, for example, that not being provided with the text of the agreement by USTR hampered their ability to assess potential impacts.

Singapore. Being primarily urban, this city state produces little of its own food. Reflecting this, its tariffs applied on imported agricultural commodities and food products (except for beer, wine and spirits) are currently zero. U.S. agricultural and food exports in 2002 totaled $240 million, compared to $56 million in similar imports. Top U.S. agricultural exports were fruit and related products, vegetables and related products, cooking oils, snack foods, and poultry meat. Purchases of cocoa paste and butter, snack foods, rubber and related products, and spices from Singapore accounted for more than half of agricultural imports.

Because Singapore is a major shipping hub, some U.S. commodity groups sought the inclusion of rules of origin in the FTA to prohibit duty-free treatment of food products transhipped through its port from neighboring agricultural producing countries in Southeast Asia. The APAC reported to USTR on February 26, 2003, that the agreement's "rules of origin will protect U.S. producers from imports of ineligible products from third countries through Singapore." The majority on the sweeteners and related products advisory committee, however, raised concerns about whether these rules are written in such a way to prevent access to the U.S. market for sugar-containing products shipped from Singapore. APAC's report further stated that this FTA achieves U.S. negotiating objectives of eliminating tariffs and securing market opportunities "by permanently opening the Singapore market for U.S. agricultural products," making them eligible for duty free access.

Other FTAs. As part of its overall trade strategy, the Bush Administration has initiated, or shortly will begin, FTA negotiations with four other countries or regional blocs: five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), Morocco, the Southern African Customs Union (South Africa, Botswana, Lesotho, Namibia, and Swaziland), and Australia.

Some U.S. agricultural interests concerned about the competitive pressures expected from free trade with these countries oppose negotiating FTAs, preferring that the Administration instead focus on efforts to secure multilateral trade liberalization in the WTO's trade negotiations. As examples, the U.S. sugar industry advocates this strategy, since Central America, Australia, and South Africa are major sugar exporters. The U.S. beef and dairy industries also are concerned about Australia's ability to supply the U.S. market, and oppose an FTA with that country. U.S. food manufacturers, though, see opportunities in FTAs with Central America, Morocco, and South Africa.

Role of Congress

The President notified Congress January 30, 2003 of his intent to sign free trade agreements with Singapore and Chile, initiating a 90-day period mandated by the

Trade Act of 2002 (P.L. 107-210), after which the United States can sign the agreements. The 2002 act further requires that the Administration consult with the House and Senate Agriculture Committees, particularly on the potential impact of free trade on U.S. import-sensitive agricultural products, as these FTA negotiations proceed. Once agreements have been signed, the President and Congress will develop draft implementing legislation which would be handled by Congress on an expedited or fast track basis according to procedures established in P.L. 107-210.

For More Information

CRS Electronic Briefing Book, Agriculture Policy and Farm Bill, *Agriculture in the U.S. - Chile Free Trade Agreement.*

CRS Electronic Briefing Book, Trade, *U.S.-Chile Free Trade Agreement*.

CRS Electronic Briefing Book, Trade, *U.S.-Central America Free Trade Agreement*.

CRS Electronic Briefing Book, Trade, *Singapore-U.S. Free Trade Agreement*.

CRS Electronic Briefing Book, Trade, *U.S.-Southern African Customs Union (SACU) Free Trade Agreement.*

CRS Report RL31709, *The U.S.-Singapore Free Trade Agreement*.

CRS Report RL31144, *The U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues*.

Agriculture in the Free Trade Area of the Americas (FTAA)*

Issue

The Administration has placed a high priority on negotiating an agreement to remove all trade barriers within the Western Hemisphere. The FTAA is intended to go beyond NAFTA to encompass all trade and services among all of the region's countries (except Cuba), and eventually supersede both NAFTA and regional trading agreements, including the free trade agreement the United States has just negotiated with Chile and the FTA being negotiated with Central America. Crafting rules for liberalizing agricultural trade and negotiating the fine details among the region's 34 countries by 2005 will be difficult and contentious.

Background and Analysis

U.S. agricultural exports to the markets that an FTAA would open (the countries of South America, Central America, and the Carribean) were $4.457 billion or 8.4% of U.S. global farm product sales in 2002. Commodity and food imports from these three regions, by contrast, accounted for $6.814 billion, nearly 17% of U.S. agricultural imports.

At the third Summit of the Americas in April 2001, hemispheric leaders ratified dates for concluding the FTAA negotiations (January 2005) and making the agreement effective (December 2005). They further committed to make the negotiating process more transparent and accessible. Trade officials reached agreement on the modalities (formulas, targets, or schedules) to be followed for making tariff reductions in late August 2002. They agreed that all countries (except CARICOM members – comprising most Caribbean islands, Belize in Central America, and Guyana and Suriname in South America) could start tariff cuts from current applied rates rather than from the higher bound rates that all WTO members adopted in the last multilateral negotiating round. CARICOM countries will be allowed to identify those agricultural and other products where the maximum bound rate could be used as the reference point for reducing tariffs. The November 1, 2002, meeting of trade ministers in Ecuador finalized the negotiating pace and process to be followed over the 2003-2004 period. These final stages of the FTAA negotiations are being co-chaired by Brazil and the United States. All FTAA countries met the February 15, 2003, deadline for presenting their initial tariff reduction offers. Each country will respond to these in the form of market access requests, due by June 15, 2003. Revised offers would then follow this "request-offer" process.

USTR's Ambassador Zoellick, on February 11, 2003, laid out the scope of the U.S. tariff reduction offer on agricultural and other products. In unveiling this offer, he said that the United States is prepared to grant immediate duty-free access on 56% of the agricultural products that enter from non-NAFTA countries once the

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* Prepared by Remy Jurenas, Specialist in Agricultural Policy, Resources, Science and Industry Division.

agreement takes effect. On politically-sensitive farm products, Ambassador Zoellick stated that the United States proposes to eliminate tariffs with specific timetables that would differ between countries or regional groups. Transition periods could be 5 or 10 years, or even longer, depending upon a country's size and its level of economic development, and the type of agricultural product. Ambassador Zoellick indicated all agricultural products are on the table and subject to negotiation (i.e., no exclusions), and that the United States will move forward with other countries willing to take the same position.

Hemispheric free trade in agriculture by about 2020 is envisioned if negotiators reach agreement on an FTAA in 2005. The agricultural component of the FTAA negotiating process, though, could become problematic once negotiators begin to apply negotiating modalities to specific commodities and food products that each country historically has protected. Some Latin American countries, particularly Brazil, seek increased access to the U.S. market for competitive products such as beef, citrus, and sugar. U.S. commodity groups and agribusiness seek additional openings for their products in the rapidly growing Latin American market. They also seek legal assurances that all countries will abide by sanitary and phytosanitary (SPS) rules with respect to agricultural imports. Though the United States will emphasize eliminating tariffs and other barriers to agricultural trade, Brazil and other countries have signaled they want the negotiating agenda to also address the issue of domestic agricultural support (i.e., farm price and income support). They have suggested linking reductions in their higher tariffs to a concession by the United States on the domestic support issue. The United States has countered that this issue is not one of the agreed-upon FTAA objectives, and should instead be addressed jointly by all FTAA countries in the ongoing multilateral WTO agriculture negotiations.

Role of Congress

Congress would take up any agreement that results from negotiations to establish the FTAA under fast track procedures (in P.L. 107-210) for congressional consideration of legislation to implement trade agreements. In the meantime, according to the procedures established in P.L. 107-210, Congress and the Administration will be consulting as negotiations proceed.

For More Information

CRS Report RL30935, *Agricultural Trade in the Free Trade Area of the Americas*.

CRS Report RS20864, *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*.

Agricultural Negotiations in the World Trade Organization[*]

Issue

The United States is engaged in a new round of multilateral trade negotiations, one of whose aims is further liberalization of global agricultural trade. According to the declaration agreeing to a new trade round, the objectives for agriculture are to substantially improve market access for agricultural products, reduce and phase out export subsidies, and substantially reduce trade-distorting domestic support. Most U.S. agricultural interest groups support the inclusion of agriculture in a broader multilateral trade round. These groups believe that trade-offs possible in a comprehensive negotiation would result in improved market prospects for U.S. agricultural exports. Others, such as producers of import-sensitive crops, who feel disadvantaged by previous trade agreements (e.g., NAFTA) or threatened by possible new agreements, are not as enthusiastic about U.S. participation in a new round. The agricultural negotiations have important implications for farm bill programs that provide price and income support to farmers and for export and food aid programs. There are also important differences in negotiating positions among WTO member countries, especially between the United States and the European Union, and between those two WTO members and the developing countries.

Background and Analysis

At the World Trade Organization (WTO) Fourth Ministerial Conference in Doha, Qatar, in November 2001, trade ministers agreed on a declaration to begin a new round of multilateral trade negotiations (MTNs), including negotiations on agriculture. This new round, because of its emphasis on integrating developing countries into the world trading system, is called the Doha Development Agenda (DDA). A first phase of agricultural trade negotiations had been underway since early 2000. The DDA incorporates those negotiations into a comprehensive multilateral trade negotiation and begins a second phase of negotiations on agriculture.

For agriculture, the Doha Ministerial Declaration states that *"building on the work carried out to date* (in the sectoral negotiations)" and *"without prejudging the outcome of the negotiations, we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support."* The Declaration also provides that *"special and differential treatment for developing countries shall be an integral part of all elements of the negotiations."* The Declaration takes note of *"non-trade concerns reflected in negotiating proposals of Members"* and confirms that "*non-trade concerns will be taken into account"* in the negotiations.

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[*] Prepared by Charles E. Hanrahan, Senior Specialist in Agricultural Policy, Resources, Science and Industry Division.

During 2002, WTO member countries discussed the issues of market access, export competition, and domestic support. The United States, the Cairns Group of agricultural exporting countries,[*] the European Union (EU), Japan, and several developing countries submitted negotiating proposals during 2002.[**] The DDA called for reaching an agreement by March 31, 2003 on "modalities" (e.g., formulas, targets, timetables) for achieving the objectives mandated by the Doha Declaration, but that deadline was missed. Now, negotiations on modalities will continue but probably not be completed until the September WTO Ministerial Conference scheduled for September 2003 in Cancun, Mexico.

Negotiating modalities has not been easy. Member countries differ sharply in their choice of modalities. For example, some want to reduce high tariffs more rapidly than lower tariffs, while others will want to protect "sensitive" products by slowing the pace of tariff reduction. Similarly, some want rapid reductions in export or domestic subsidies while others will want longer timetables for reductions. Once an agreement on modalities is reached, WTO member countries would begin to negotiate individual country schedules or lists of commitments.

The U.S. position, first tabled in June 2000 and amplified in a July 2002 proposal, includes the elimination of agricultural export subsidies; substantial reductions in tariffs (with no country's individual tariff exceeding 25%); 20% increases in tariff-rate quotas on agricultural imports; disciplines on state trading enterprises; and reductions in "amber box" spending (trade distorting domestic support) to no more than 5% of the value of each country's total agricultural production – the objective being to make all countries' domestic support levels comparable in relative terms (i.e., harmonized).[***] Most of these changes would be

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[*] The 17 members of the Cairns group are: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay.

[**] Negotiating proposals submitted by individual countries, and background papers on negotiating issues prepared by the WTO Secretariat, can be found at [http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm].

[***] The WTO classifies domestic farm support policies into three colored box categories. *Green box* programs are publicly funded programs (financed by direct outlays or foregone revenue) that do not involve a transfer from consumers or have the effect of providing price support to producers. Examples of green box programs are research programs, de-coupled income support such as U.S. direct payments to producer that are not contingent on any production, environmental program payments, such as the Conservation Reserve Program, or disaster assistance. No WTO disciplines or reductions apply to green box programs. *Blue box* program are direct payments made under a production limiting program. The EU is the primary user of blue box program, making direct payments to producers for example, based on fixed areas or yields or a fixed number of livestock. There are currently no U.S. blue box programs. Blue box programs also are not subject to reduction commitments. *Amber box* programs are payments that are contingent on participation in agricultural production, i.e., producing a crop or raising livestock qualify a farmer for government payments. U.S. amber box programs include price supports for dairy, sugar and peanuts and loan deficiency payments or marketing loan and loan deficiency payments. EU amber box payments include so-called intervention buying of farm products at prices administratively

(continued...)

phased in over 5 years. Ultimately, according to the U.S. proposal, tariffs and domestic support also would be eliminated. The Cairns Group proposal, which is strongly supportive of the U.S. position, also calls for deep cuts in tariffs and domestic support and the elimination of export subsidies. Many in Congress have expressed support for the U.S. negotiating proposal, but have made their support contingent on reduction and harmonization of tariffs and subsidies by other WTO members, especially the EU.

In sharp contrast to the U.S. position, the EU calls for applying formulas used in Uruguay Round agriculture negotiations (1986-1994) as modalities. Such an approach would yield progressive reductions in tariffs and subsidies but not harmonization or elimination. The EU also has conditioned its support for export subsidy reduction on negotiating disciplines for export credit programs and food aid programs. The EU negotiating proposal, along with those of Japan and Korea place greater emphasis on so-called non-trade concerns like protecting the environment, animal welfare, and rural development. Those WTO members are seeking exemptions from WTO reduction commitments and disciplines for subsidies provided to promote such non-trade concerns. The U.S. position is silent on non-trade concerns, but U.S. trade negotiators express fears that payments to producers to promote non-trade concerns would be disguised trade-distorting measures.

Some suggest that the success of the agriculture negotiations depends on the pace of agricultural policy reform in the EU and the United States. A recent agreement between France and Germany to maintain EU domestic farm support at current levels and postpone any reductions in support until after 2007 may make it more difficult for the EU to agree to agricultural trade reforms in the current round. In the EU, efforts to reform its Common Agricultural Policy face considerable opposition from several EU member states. These reforms, which include substantial de-coupling of income support from production and reductions in price supports, could, if adopted, facilitate the EU's ability to accept cuts in trade-distorting domestic support or the elimination of export subsidies.

In the United States, the President on May 13, 2002, signed into law a farm bill (P.L. 107-171) to replace the 1996 Federal Agricultural Improvement and Reform, or FAIR, Act) that, many critics say, could raise trade-distorting domestic support above U.S. WTO commitments to reduce such spending and also undermine the U.S. position in the new round. However, the farm bill stipulates that the Secretary shall, to the maximum extent possible, make adjustments in U.S. farm subsidies to ensure that it does not exceed levels allowable under the WTO Agreement on Agriculture. Moreover, U.S. trade officials insist that the United States has not wavered from its negotiating objective of securing substantial reductions in domestic subsidies, including U.S. subsidies, that distort trade, and that congressional support for the U.S. negotiating proposal remains strong.

[***] (...continued)
maintained above market prices. In contrast to green and blue box programs, amber box payments are subject to WTO reduction commitments.

Developing countries who constitute the majority of WTO members are calling for rapid dismantling of developed countries' trade barriers and the elimination of production-linked domestic subsidies. Developing countries are also seeking exemptions for developing country domestic support deemed essential for economic development. Developing countries are a large and diverse group with many different position on negotiating issues, but many, especially those that are exporters of agricultural products, have targeted both U.S. and EU subsidies for elimination in the negotiations. While developing countries are seeking substantial reductions in agricultural tariffs of developed countries, they are resistant to the idea of reciprocal tariff reductions, preferring instead to be accorded special and differential treatment which would entail maintaining tariffs or phasing them down over lengthy time periods.

To facilitate the process of reaching agreement on modalities, the chairman of the Agriculture Negotiating Group, Stuart Harbinson, issued on February 17, 2003 and revised slightly on March 20, 2003, a draft paper with various proposals for modalities. Harbinson's "modalities " report attempted to steer a middle course between the U.S. and EU negotiating positions, while according special and differential treatment to developing countries. Chairman Harbinson's report dealt with the three so-called pillars of the agriculture negotiations: market access, export competition, and domestic support. On market access, he proposed that for tariffs greater than 90% *ad valorem* the simple average would be reduced by 60% subject to a minimum cut of 45% per tariff line; for agricultural tariffs lower than or equal to 90% but greater than 15%, the simple average reduction would be 50% subject to a minimum cut of 35% per tariff line; and for all agricultural tariffs lower than or equal to 15%, the simple average reduction would be 40% subject to a minimum cut of 25% per tariff line.

On export competition, Harbinson's modalities report recommends that export subsidies be eliminated over a ten-year period. Export credit and food aid programs would also be covered by new rules. Repayment terms for export credits would be limited to a maximum of six months but developing countries would be allowed longer repayment periods. Only grant food aid would be permitted under the Harbinson recommendations. However, food aid provided in kind for development projects could be provided through United Nations food agencies or UN food agency projects operated by non-governmental or charitable organizations.

On domestic support, the modalities report calls for a 60% reduction in trade-distorting (or amber box) support. The report also suggested that trade-distorting support tied to production limits (blue box support used primarily by the EU) be capped and then reduced by 50% over five years. The modalities report also included an option for eliminating the blue box altogether by including it in the amber box category and subjecting it to a 60% reduction.

While U.S. trade negotiators indicated they considered the modalities report as a reference point for further negotiations, they were highly critical of specific proposals. At a meeting of WTO trade ministers in Tokyo (February 14-16) where a draft of the report was considered, the United States and the Cairns Group said the recommendations fell far short of their earlier proposals. U.S. criticisms, among others, were that the market access provisions did not result in harmonization of tariff

levels and that the application of the Harbinson approach would still leave very high tariffs on many products, especially meat products. While the U.S. trade officials welcomed the elimination of export subsidies, they noted that the ten-year phase-out schedule should be considerably shortened. According to U.S. participants in the Tokyo meeting, reduction proposals for amber box support would enable the EU to maintain trade-distorting blue box payments and to continue to provide considerably more trade-distorting amber box support than could the United States. U.S. amber box support is capped at $19 billion annually, while the EU's is capped at $67 billion. Under the Harbinson proposal, U.S. amber box support would fall to around $8 billion per year, while the EU's would be capped at $27 billion per year.

Not only the Administration, but many in Congress reacted negatively to the Harbinson proposals for the agriculture trade negotiations. A particular concern was that the Harbinson proposal for a 60% reduction in trade-distorting or amber box support, did not "level the playing field" between the United States and the EU. Permitted EU trade distorting subsidies would still be more than three times the level of permitted U.S. subsidies. Also in the 2002 Trade Act, Congress had made preserving export credit guarantee programs a major negotiating objective. The Harbinson proposals for tightening export credit program disciplines are thus likely to come under intense congressional scrutiny.

The EU also reacted negatively to the Harbinson proposals. In the EU view, they were unbalanced and placed most of the burden of adjustment on the EU. The EU was particularly concerned that, with the exception of adding animal welfare subsidies to the category of non-trade distorting (or green box) subsidies, the Harbinson report ignored non-trade concerns. The EU criticized the report's call for the elimination of export subsidies without similarly disciplining export credit programs, such as U.S. export credit guarantees. EU officials argued also that blue box subsidies are less trade distorting than amber box support and should not be subject to the same reduction requirements as amber box support.

Missing the deadline for agreeing to modalities, some observers suggest, indicates that the agriculture negotiations are stalled with neither side prepared to compromise. Some even suggest that the inability to agree on a way forward for agriculture imperils the entire Doha round. However, both U.S. and EU negotiators are maintaining that an agreement on modalities can be reached by the time of the Cancun Ministerial and that the missed deadline, though serious, will not forestall concluding the round by January 1, 2005.

Role of Congress

Congress would take up any agreements that results from the Doha round of trade negotiations under fast track procedures (in P.L. 107-210) for congressional consideration of legislation to implement trade agreements. In the meantime, according to the procedures established in P.L. 107-210, Congress and the Administration will be consulting as negotiations proceed. Interaction during the period of consultation between Congress and the Administration on negotiating positions and strategies will lay the groundwork for congressional consideration of an agreement.

Meeting the 2005 deadline for completing negotiations in the new trade round is critical as are the consultations with Congress required by the Administration under the 2002 Trade Act. Congressional fast track procedures will expire by June 1, 2005, but could be extended if the President satisfies the consultation requirements in P.L. 107-210 and if progress is being made in meeting the negotiating objectives set forth in the Trade Act of 2002.

For More Information

CRS Electronic Briefing Book, Trade, *Agriculture Negotiations in the World Trade Organization.*

CRS Electronic Trade Briefing, Trade, *The World Trade Organization: the Doha Ministerial.*

CRS Issue Brief 98928, *The World Trade Organization–Background and Issues*, updated regularly

CRS Report RS21085, *Agriculture in WTO Negotiations*

CRS Report RS21085, *Agriculture in WTO Negotiations*.

Biotechnology and Agricultural Trade*

Issue

Differences between the United States and its trading partners over genetically engineered (GE) crops and food products that contain or are derived from them pose a potential threat to, and in some instances have already disrupted, U.S. agricultural trade. Corn and soybean exports are the most seriously threatened crops. Underlying the conflicts are pronounced differences, reflected in consumer attitudes and regulatory systems, between the United States and several important trading partners about GE products and their potential health and environmental effects.

Background and Analysis

Widespread farmer adoption of bio-engineered crops in the United States makes consumer acceptance of GE crops and foods at home and abroad critical to U.S. producers, processors, and exporters. U.S. farmers, who use GE crops to reduce production costs or make field work more flexible, planted 66% of the estimated 145 million acres planted to GE crops worldwide in 2002, according to the International Service for the Acquisition of Agri-Biotech Applications. Supporters of GE crops maintain that the technology reduces the use of environmentally damaging chemical inputs. U.S. consumers, with some exceptions, have been generally accepting of the safety of GE foods. More attention has been paid in the United States to the allegedly adverse environmental impacts of planting GE varieties. In contrast, in the European Union (EU), Japan, South Korea, and elsewhere, consumers, environmentalists, and some scientists maintain that the long-term effects of GE foods on both health and the environment are unknown and not scientifically established. The EU, in particular, insists that precaution should be used in approving and regulating GE foods. Elsewhere, China has announced new regulations for approving and labeling GE products, which, U.S. officials and exporters contend, could be potential trade barriers.

In the EU, a *de facto* moratorium, in effect since 1998, on approvals of GE crops has effectively eliminated U.S. corn exports. Industry and USDA estimates are that $300 million of corn exports are lost annually as long as the moratorium is in effect because the EU has not approved GE varieties of corn produced in the United States–varieties which EU scientific committees that advise the EU Commission have found to be safe for consumption and for the environment. Although China's regulations for GE crops threaten U.S. soybean exports, so far soybean exports, which have averaged around $900 million per year (2000-2002), have not been disrupted.

Supporters of GE crops maintain also that the technology holds promise for enhancing agricultural productivity and improving nutrition in developing countries. There are, however, many technical, legal, social and other obstacles to be overcome before the potential contribution of biotechnology to food security in developing

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* Prepared by Geoffrey S. Becker, Specialist in Agricultural Policy, and Charles E. Hanrahan, Senior Specialist in Agricultural Policy, Resources, Science, and Industry Division.

countries could be realized. In the meantime, concerns about the possible health, environmental, and commercial risks associated with GE crops have posed some difficulties in meeting urgent food aid needs in southern Africa. One country suffering from severe food shortages in that region has rejected food aid shipments containing GE corn, while others in the region have required that GE corn in food aid be milled, thus adding to the costs of providing relief. Other developing countries complain about the lack of international standards and procedures for assuring that health and environmental risks associated with GE crops are manageable and acceptable, thus minimizing commercial risks from producing and exporting GE crops.

U.S. regulations for GE foods have facilitated their introduction into U.S. agriculture and food processing. The principle has been that GE foods are "substantially equivalent" to non-GE foods; therefore, existing regulations for approving foods are appropriate and adequate. Labeling with respect to GE content is not required, except where there is a significant difference between the conventional and the GE food product (for example, the presence of an allergen). The EU, Japan, South Korea, China, Australia, and New Zealand either have or are establishing mandatory labeling requirements for products containing or derived from GE ingredients. Japan, the EU, China, and South Korea are respectively the second, fourth, fifth, and sixth largest overseas markets for U.S. agricultural exports.

Now that the EU has approved further EU-wide legislation for approving and regulating GE products, for tracing GE crops through the marketing chain, and for labeling products that contain or are derived from GE ingredients, there appears to be some possibility that the moratorium would be lifted. The new regulations are expected to be in place by mid-2003. Some EU member states, however, might still object to such approvals. Meanwhile, Administration officials are considering whether to challenge the EU's moratorium on approvals of genetically engineered crop varieties in WTO dispute settlement. A number of U.S. agricultural interest groups and Members of Congress have been urging the United States to bring the EU into WTO dispute settlement on the biotechnology issue. The U.S. challenge would be based on the argument that there is no legal basis for a moratorium under WTO rules.

The U.S. food and agriculture sector faces the challenge of responding to consumer demand, especially overseas, for products differentiated as to their GE or non-GE content. U.S. agribusinesses also are seeking to influence EU regulations for tracing GE foods through the marketing chain and for labeling GE foods. U.S. industry is assessing the costs and benefits of separating GE from non-GE crops and of preserving crop identity in the marketing chain. U.S. regulators are making changes to facilitate voluntary labeling or enhance systems for certifying statements about the GE content of foods.

Role of Congress

The House and Senate Agriculture Committees, the House Ways and Means and the Senate Finance Committees will be among those closely watching biotechnology developments in the EU and elsewhere and the Administration's response. A number of congressional leaders, including the Speaker of the House and the Chairman of the

House Agriculture Committee, have publicly urged the Administration to formally challenge the EU policy before the WTO. Whether new legislation will be offered and advanced in the 108th Congress which promotes actions to support U.S. exports of GE products remains to be seen.

The 107th Congress passed several measures of this type, including the following provisions in the 2002 farm bill (P.L. 107-171): a biotechnology and agricultural trade program, aimed at barriers to the export of U.S. products produced through biotechnology (Section 3204); competitive grants for biotechnology risk assessment research (Section 7210); agricultural biotechnology research and development for developing countries (Section 7505); and a program of public education on the use of biotechnology in producing food for human consumption (Section 10802). Also, legislation that gives the President trade promotion (or "fast track") authority (P.L. 107-210) contains language calling on U.S. trade negotiators to negotiate rules and dispute settlement procedures that will eliminate unjustified restrictions and requirements, including labeling, of biotechnology products.

Some bills introduced in the 2nd session of the 107th Congress that took other approaches to, or address other aspects of, biotechnology might be reintroduced in the 108th. Such bills included H.R. 4814, which called for mandatory labeling of GE foods. Other bills in the 107th (H.R. 4812, H.R. 4813, and H.R. 4816) dealt respectively with legal issues raised by cross-pollination with GE plants, a study of the safety of GE foods, and liability for injury caused by GE organisms.

For More Information

CRS Electronic Briefing Book Page, *Biotechnology and Agricultural Trade*.

CRS Electronic Briefing Book Page, *Agricultural Biotechnology*.

CRS Report RS21381, *Adoption of Genetically Modified Agricultural Products.*

China and U.S. Agriculture[*]

Issue

There is mounting concern from U.S. producer groups, Administration officials, and other trading partners that China has been slow to implement, only partially implemented, or in some instances has failed to comply with agricultural trade commitments made under recent international trade agreements. The speed and manner with which China implements its trade commitments are critical to the development of U.S.-China agricultural trade. While U.S. agriculture and trade officials have been working to resolve these differences, progress has been slow.

Background and Analysis

China (including Hong Kong) represents an important market for U.S. agricultural products with prospects for strong growth. During FY2001 and FY2002, U.S. agricultural exports to China (including Hong Kong) averaged $3 billion per year making it the fifth largest market for U.S. farm products. U.S. agricultural imports from China averaged over $800 million. To maintain access to this trade potential, to help ensure China's integration into the global economic community, and to bring China's trade regime under international rules and standards, the United States successfully negotiated the bilateral U.S.-China Agricultural Cooperation Agreement (ACA) in November 1999. The United States also granted China permanent normal trade relations status, approved by the 106th Congress and signed into law (P.L. 106-286) in October 2000. The market access commitments negotiated under the ACA provided the eventual basis for China's Protocol of Accession to the World Trade Organization (WTO) in December 2001.

Under these agreements, China made very specific market access commitments regarding the reduction of tariffs for agricultural products; the conversion of non-tariff trade barriers to tariffs including the establishment of tariff-rate quotas (TRQs) for bulk agricultural commodities; and the allocation of a growing share of within-quota imports to private sector importers. China agreed also to comply with WTO rules for sanitary and phytosanitary (SPS) and technical measures, to eliminate export subsidies, to stop discriminating between domestically produced and imported products, and to make its trade and policy regulations public and more transparent.

China's progress in implementing its trade commitments is affected by a number of factors including complications inherent in switching from a heavily regulated, secretive centrally planned economy to an open market-based economy. Difficulties in coordinating local or provincial with national interests also slow progress. Both the U.S. Government and the WTO have established mechanisms to monitor China's implementation of its access commitments including those on agriculture. Several compliance issues have surfaced and remain unresolved.

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[*] Prepared by Randy Schnepf, Analyst in Agricultural Policy, Resources, Science, and Industry Division.

TRQ Implementation. China repeatedly delayed announcement of regulations for the 2002 TRQ allocations (its first full year of WTO membership). When finally announced in May 2002, they did not appear to provide the market access that the United States and other exporting countries had anticipated under China's WTO agreement. A key feature of China's TRQ commitments included distributing quota shares to private enterprises rather than through the tightly-controlled state trading enterprises (STEs). However, U.S. officials complain that U.S. exporters have been unable to identify clearly which users in China have received TRQs and how much. In addition, U.S. exporters have reported additional problems including delays in the issuance of import permits; supplementary requirements that a portion of TRQ imports be destined for re-export in processed products, thus shielding the domestic market; quota allocations restricted to unit-sizes smaller than viable quantities for bulk commodities; unexpected contractual prerequisites for TRQ eligibility; and additional import licensing requirements by the State Administration of Quality Standards, Inspection and Quarantine (AQSIQ).

Tariffs. China agreed that, with accession, it would gradually reduce its tariffs for agricultural products from an average level of 22% to an average of 17% by 2004. "Bound tariff rates" were incorporated as part of China's schedule of concessions to provide ceilings for individual commodity tariff rates. However, several cases have been reported by U.S. firms exporting to China where the *ad valorem*-equivalent tariffs applied in 2002 (based upon actual Chinese import data for several agricultural products) have exceeded the scheduled tariffs.

Value-Added Tax (VAT). Special tax treatment given to domestically produced agricultural products appears inconsistent with WTO commitments. U.S. agriculture officials have reported instances where China has applied its VAT at a higher rate to imports than to domestic production.

Biotechnology Regulations. A temporary import regime governing rules for approval and labeling of farm products containing genetically modified organisms (GMOs) is presently in place. Under the regime, genetically engineered products are supposed to be acceptable if exporting countries have approved them and they are undergoing Chinese testing and approval procedures. U.S. producers have expressed concerns about overly vague rules, uncertainties over how the import regime will function, and likely extensive paperwork requirements. The U.S. soybean industry is particularly concerned that this new regime may disrupt trade and cause economic harm. China has been the second-largest destination for U.S. soybean exports over the past three years (FY2000 - FY2002) averaging nearly $900 million annually in value. To date, U.S. soybean exports to China have not been disrupted.

Export Subsidies. Although China had canceled direct export subsidies since joining the WTO, other policies appear to have replaced them according to a report by USDA's Economic Research Service. As a result, China's corn exports have continued at a near-record pace through 2002 at prices significantly below ex-warehouse prices in China's production areas. The principal destination for China's corn exports is South Korea. Generally a buyer of U.S. corn, South Korea's imports of U.S. corn for the first eight months of 2002 were down 70 percent from a year earlier.

Other Problems. U.S. exporters have also expressed concern over the imposition of additional handling requirements and other hurdles for Pacific Northwest wheat; access denied for other U.S. farm and food products on SPS grounds including fresh potatoes, avocados, peaches, pears, and certain apple varieties; and new restrictions for fertilizers.

Although these irregularities are inconsistent with WTO rules, the Chinese authorities have offered various explanations. For example, China claims that the slow issuance of import permits is intended to limit smuggling. U.S. exporters acknowledge problems associated with smuggling, but prefer solutions that don't infringe on the timely handling of TRQ allocations. Also, China claims that public identification of enterprises that have applied for or received TRQ allocations would violate commercial confidentiality, a contention that U.S. authorities dispute.

The U.S. Government and the WTO have set up mechanisms to monitor and review China's progress in implementing its trade commitments. China's Protocol of Accession to the WTO included the establishment of a Transitional Review Mechanism (TRM) which details a procedure for reporting on and evaluating the implementation by China of its WTO commitments. The United States used the TRM, in September 2002, to submit an extensive list of questions to China via the WTO's reviewing bodies. The list of questions identified many of the disputed trade practices highlighted above. To date, the Administration has followed a course of pursing bilateral discussions to remedy non-commitment, rather than multilateral dispute settlement. However, the potential use of the WTO dispute settlement mechanism remains a viable tool for resolving disagreements over implementation issues and maintains steady pressure on China to meet its obligations.

In late July 2002, Agriculture Secretary Veneman spent 3 days in China to discuss these issues, and appointed USDA Senior Trade Counsel David Hegwood to lead a working group on biotechnology with China. Administration officials are continuing to meet with their Chinese counterparts in efforts to resolve problems.

USTR chairs the Trade Policy Staff Committee (TPSC) Subcommittee on China WTO Compliance. The TPSC works closely with the various U.S. government departments and their agencies involved in international contacts with U.S. industries operating in China as well as with Chinese government officials. During his February 2003 visit to China, U.S. trade Representative Robert Zoellick, expressed strong concern over non-compliance but also expressed optimism about China's willingness to engage in discussions intended to resolve the many issues surrounding its WTO trade commitments.

Role of Congress

Given the huge market potential of China, and the importance of adherence to trade commitments, Congress will be closely monitoring developments in China's implementation of its WTO obligations. Under Section 421 of the U.S.-China Relations Act of 2000 (P.L. 106-286), the USTR is required to report annually to Congress on compliance by China with commitments made in connection with its accession to the WTO, including both multilateral commitments and any bilateral commitments made to the United States. During the 108th Congress, congressional

oversight and consultation with the Administration about China's compliance with its WTO commitments will be the major vehicles for Members to monitor developments and express their views on the issues.

For More Information

CRS Report RS21292, *Agriculture: U.S.-China Trade Issues*.

CRS Report RS20169, *Agriculture and China's Accession to the World Trade Organization.*

CRS Electronic Trade Briefing Book, *China's Accession to the WTO.*

Gale, Fred. *China Corn Exports: Business a Usual, Despite WTO Entry*, FDS-1202-01, Economic Research Service, USDA, December 2002. http://www.ers.usda.gov/publications/fds/dec02/fds1202-01/

Country-of-Origin Labeling*

Issue

The Farm Security and Rural Investment Act (FSRIA) of 2002 (P.L. 107-171) soon will require many food stores to provide country-of-origin labeling (COOL) on fresh fruits, vegetables, red meats, seafood, and peanuts. Proponents of COOL argued that U.S. consumers have a right to know the origin of their food, particularly during a period when food imports are increasing, and will continue to increase under both existing and future trade agreements. Such information is particularly important to consumers whenever specific health and safety problems arise that may be linked to imported foods, proponents add. They cite, as examples, the 1997 hepatitis outbreak linked to strawberries grown in Mexico, and concerns about the safety of some foreign beef due to outbreaks of bovine spongiform encephalopathy (BSE or "mad cow disease").

Critics of the new law, however, argue that such labeling does not increase public health protection by telling consumers which foods are safer than others: all food imports already must meet equivalent U.S. food safety standards, which are enforced vigorously by U.S. officials at the border and overseas. In fact, they note, several serious outbreaks of food borne illness in recent years have been linked to contaminants in perishable agricultural commodities produced in the United States, including the bacteria *e. coli* 0157:H7 and *salmonella*. Scientific principles, not geography, must be the arbiter of safety, they add. Some critics are urging the 108th Congress to revisit the new labeling law, partly on the grounds that implementation will be costly and hinder rather than help U.S. producers' competitive advantage. Proponents maintain that the expected benefits to U.S. farmers, ranchers, and consumers will outweigh implementation and compliance costs.

Background and Analysis

Federal law has long required most imports, including many foods, to bear labels informing the "ultimate purchaser" of their country of origin. The 2002 farm law (FSRIA) extends new COOL requirements to ground and muscle cuts of beef, lamb and pork, farm-raised and wild seafood, peanuts, and fresh and (fresh frozen) fruits and vegetables – which were among the raw agricultural products generally exempt from the existing COOL requirements. Starting September 30, 2004, supermarkets and many other food stores must inform consumers of these products' country of origin "by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers." The law exempts the products if they are ingredients of processed foods, and it also exempts food service establishments, such as restaurants and cafeterias.

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* Prepared by Geoffrey S. Becker, Specialist in Agricultural Policy, Resources, Science, and Industry Division.

USDA's Agricultural Marketing Service (AMS) issued guidelines for the prescribed voluntary phase of COOL on October 8, 2002; rulemaking on the mandatory phase is scheduled to begin in April 2003. The voluntary guidelines have reignited debate over a number of policy issues, among them:

- Will COOL provide U.S.-raised products with a competitive advantage over foreign products, because U.S. consumers can more easily identify and choose fresh foods of domestic origin? Or will industry (including on-farm) compliance costs outweigh any potential benefits – particularly for beef, lamb, and pork producers competing with poultry, whose products are not subject to COOL?

- As the AMS voluntary guidelines imply, will "every person" who prepares, stores, distributes, or supplies the covered commodities for retail sale – extending back to the farm or ranch – have to maintain detailed records, and even track the identity of each animal (or plant) from birth (harvest) through retail sale because they might be criminally or at least contractually liable for non-compliance? Or will record-keeping be far less onerous, partly because modern production and marketing methods already incorporate many aspects of this information?

- Is the AMS preliminary estimate of recordkeeping costs, at $2 billion in the first year, evidence of a huge burden industry is facing (or as some critics suggest, an insufficient burden), or are the figures grossly exaggerated, as COOL supporters believe?

- Is the new COOL law deliberately intended to increase costs for importers – thereby undermining U.S. efforts to break down other countries' trade barriers, and violating existing U.S. trade obligations? Or is it simply extending to raw products the same U.S. requirements that almost all other imported consumer products, from automobiles to most other foods, already must meet – and that many foreign countries themselves now impose on food and farm products? To what extent is COOL comparable to EU proposals for mandatory labeling of GE products?

Role of Congress

Some food industry and producer trade associations are calling for a re-examination of the new COOL requirements, and its impacts on industry costs and competitiveness. A few have suggested that the law should be changed or even repealed. As of early March 2003, no such legislation had been introduced. Some observers anticipate that Congress will at least be asked to hold hearings on the matter. At the same time, those who pressed for passage of the law can be expected to defend its necessity and efficacy.

For more information

CRS Report 97-508, *Country-of-Origin Labeling for Foods*.

Agricultural Exports to Cuba[*]

Issue

U.S. policy is to exempt commercial sales of agricultural and medical products from U.S. unilateral sanctions imposed on foreign countries, subject to specified conditions and prohibitions. Debate continues, though, among policymakers on the scope of restrictions that should apply to agricultural sales to Cuba.

Background and Analysis

The Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) codified the lifting of U.S. sanctions on commercial sales of food, agricultural commodities, and medical products to Iran, Libya, North Korea, and Sudan, and extended this policy to apply to Cuba. TSRA's provisions place financing and licensing conditions on sales to these countries. Those applicable to Cuba are more restrictive than for the other countries, and are permanent. Including Cuba in this exemption to U.S. unilateral sanctions policy generated the most controversy. Proponents argued that the prohibition on sales to Cuba (a sizable nearby market) harmed the U.S. agricultural sector, and that opening up limited trade would be one way to pursue a "constructive engagement" policy. Opponents countered that such an exemption would undercut current U.S. policy designed to keep maximum pressure on the Castro government until political and economic reforms are attained. In the compromise adopted by conferees, opponents succeeded in inserting the permanent restrictive provisions that apply uniquely to Cuba.

Cuban officials initially stated that no purchases would be made under TSRA's conditions; however, food stock losses due to devastation caused by a hurricane in late 2001 prompted a reversal. This development, and Cuba's strategy to use this issue as one way to remove the longstanding U.S. embargo, led to $170 million in cash purchases of U.S. farm commodities and food products from late 2001 through 2002. Another $50 million in sales made at a trade fair last fall will be shipped through April 2003.

The President, on May 20, 2002, in a major Cuba policy speech reiterated his opposition to any repeal of the prohibition on private financing of agricultural sales, stating it "would just be a foreign aid program in disguise, which would benefit the current regime." Bush stated he would veto legislation that relaxes the embargo in any way until the Cuban government introduced reforms. The Administration has held to this stance, and with its allies in Congress, succeeded in dropping provisions added to the 2002 farm bill and FY2003 spending bills that would have repealed the prohibition on the use of private financing on agricultural sales to Cuba and limited Treasury's ability to enforce TSRA's trade and travel restrictions, respectively.

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[*] Prepared by Remy Jurenas, Specialist in Agricultural Policy, Resources, Science, and Industry Division.

Role of Congress

Proposals that some Members of Congress have indicated they will pursue in the 108th Congress include: streamlining or eliminating U.S. export licensing and reporting requirements, shipping restrictions, and other bureaucratic regulations to make it easier to sell food, medicine, and medical products to Cuba; expanding the types of products that may be sold to include agricultural equipment and supplies; and permitting private (but not public) financing for commercial transactions (e.g., food sales) now allowed on a cash-only basis. Two bills introduced in the 108th Congress (H.R. 187 and S. 403) reflect some of these proposals.

For More Information

CRS Issue Brief 10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation,* updated regularly.

CRS Electronic Briefing Book, Trade, *Cuba Sanctions*.

U.S. - Brazil WTO Cotton Dispute*

Issue

In September 2002, Brazil initiated a case at the WTO against certain aspects of the U.S. cotton program. Subsequent consultations between the United States and Brazil in December and January failed to resolve the dispute. Continuation of the WTO dispute settlement process could lead to a "final" panel decision for or against the complaining country. Resolution of the case in Brazil's favor could result in WTO recommendations concerning implementation of U.S. cotton program provisions. Non-compliance with such provisions on the part of the United States could result in compensation or possible limited trade sanctions.

The outcome of this case is also critical to future interpretation of WTO farm subsidy rules since it represents the first formal challenge to the protection otherwise afforded domestic commodity support programs under the "peace clause" provision (see below) of the WTO Agreement on Agriculture.

Background and Analysis

Brazil argues that the United States is supplying domestic and export subsidies to its cotton sector in excess of its WTO commitments; that the subsidies provided to U.S. cotton growers have led to significant overproduction and a huge increase in U.S. cotton exports; and that the larger world cotton supplies have contributed to a steep decline in world cotton prices and have caused serious injury to Brazilian cotton exporters. U.S. trade officials argue that the subsidies provided to U.S. cotton growers have been within the allowable WTO limits and are consistent with WTO obligations.

The key to Brazil's case against U.S. domestic cotton subsidies is its argument that the United States is no longer exempt from WTO dispute proceedings under Article XIII, the so-called "peace clause," of the WTO's Agreement on Agriculture. Article XIII(b) exempts domestic support measures that comply with the Agreement on Agriculture's requirements from being challenged as illegal subsidies through dispute settlement proceedings, as long as the level of support for a commodity remains at or below the benchmark 1992 levels. Brazil argues that U.S. cotton subsidies were about $2 billion in 1992 (other sources suggest a figure closer to $1.9 billion) compared with over $4 billion in 2001.

Brazil also argues that both the "Step-2" provisions of the U.S. cotton program and the favorable terms provided under U.S. export credit programs function as export subsidies and are inconsistent with U.S. WTO obligations regarding export subsidies. (Step 2 payments are made to U.S. cotton users and exporters when U.S. cotton prices are higher than world prices.) The United States notifies to the WTO any Step-2 payments as "amber" box (trade distorting) domestic support payments and not as

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* Prepared by Randy Schnepf, Analyst in Agricultural Policy, Resources, Science, and Industry Division.

export subsidies. U.S. trade officials also contend that U.S. export credit program operations are consistent with WTO obligations.

U.S. trade officials argue that the immunity granted by the peace clause is important, however, and that even if a country is no longer in compliance with the peace clause, it is still incumbent on the complaining party to prove there has been injury. Brazil claims that injury to its economy due to low cotton prices, measured as the sum of individual negative impacts on income, foreign trade revenue, fiscal revenues, related services (transportation and ginning) and employment, exceeded $600 million in 2001 alone.

Once a WTO dispute settlement process is initiated, it must adhere to a disciplined time frame that will produce a final panel decision within one year without appeal or 15 months with appeal. However, the WTO process welcomes an "out-of-court" settlement between the principal parties at any time during this process. The 12-month WTO dispute settlement period was initiated on December 3, 2002, when Brazil and the United States held their first consultations in Geneva to discuss the dispute over U.S. cotton subsidies.

The consultations were unsuccessful and on February 19, 2003, Brazil requested the establishment of a dispute panel to rule on its complaint. In accordance with WTO rules, the United States, as potential defendant, successfully objected to formation of the panel. However, Brazil has announced its intentions to request the formation of a panel a second time at the March 18 meeting of the WTO Dispute Settlement Body. Second requests are approved automatically. The panel would be formed within 45 days (by May 2). Once formed, the panel has 6 months to hold hearings and gather testimony before issuing its final report to both parties. If the panel decides that the disputed policy measure does break a WTO agreement or an obligation, it recommends that the measure be made to conform with WTO rules. The panel may suggest how this is to be done.

Either side can appeal a panel's ruling, although appeals have to be based on points of law such as legal interpretation–they cannot reexamine existing evidence or examine new evidence. Once the case has been decided, the losing "defendant" is to bring its policy into line with the ruling or recommendations. If complying with the recommendation within "a reasonable time" proves impractical, Brazil and the United States would have to enter into negotiations in order to determine mutually-acceptable compensation (e.g., tariff reductions in areas of particular interest). If the two sides are unable to agree on compensation, the complaining side may ask the Dispute Settlement Body for permission to impose limited trade sanctions against the other side.

Role of Congress

Given the importance of cotton in the U.S. agricultural economy, Congress will be closely monitoring developments in the U.S.-Brazil cotton dispute. Under fast track, or Trade Promotion Authority, legislation, Congress will be engaged in consultations with the Administration on negotiations of the Free Trade Agreement for the Americas and the agriculture negotiations in the WTO. Such consultations will

be a major vehicle for Members to monitor developments in this dispute and the negotiating issues it raises.

For More Information

WTO. "Settling Disputes." Chapter 3, *Trading into the Future: Introduction to the WTO*, 2nd Ed., March 2001, pp. 38-42.
http://www.wto.org/english/thewto_e/whatis_e/tif_e/disp0_e.htm

For listings of WTO Dispute Cases see:
http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm

For text on the WTO Agreement on Agriculture see:
http://www.wto.org/english/docs_e/legal_e/14-ag.pdf

For text on the WTO Agreement on Subsidies and Countervailing Measures see:
http://www.wto.org/english/docs_e/legal_e/24-scm.pdf

U.S.- Canada Wheat Trade Dispute[*]

Issue

U.S. trade officials contend that Canadian wheat trading practices, particularly the export practices of the Canadian Wheat Board (CWB), are inconsistent with Canada's WTO obligations and disadvantage U.S. wheat exporters in Canadian and international markets. Canada maintains that Canadian import practices and the CWB wheat export practices comply fully with international trade rules and its WTO obligations.

Concern over alleged unfair trade practices has led to numerous investigations and charges by U.S. trade officials about the wheat trading practices of Canada and the CWB. A recent finding under a countervailing duty investigation by the U.S. International Trade Commission (ITC) resulted in the imposition of preliminary punitive duties being levied on Canadian durum and hard red spring wheat imports. Perhaps more significantly, the United States recently initiated a WTO trade dispute settlement procedure against the wheat trading practices of Canada and the CWB. Successful resolution of this dispute in favor of the United States could result in greater competitiveness for U.S. wheat vis-a-vis Canadian wheat in international markets and in U.S. wheat having improved access to the Canadian market. It could also establish precedent under WTO dispute settlement procedures for regulating the activities of state trading enterprises.

Background and Analysis

In accordance with Canadian law, the CWB has the exclusive right to purchase and sell Western Canadian wheat (durum and nondurum) and barley for export and for domestic human consumption. While Canadian farmers are free to choose the crops that they grow each year, all Canadian producer sales of wheat and barley must be to the CWB. Critics argue that such monopsony (single buyer) power gives the CWB extraordinary market power, particularly in the North American markets for durum and hard spring wheat.

Representatives of the U.S. wheat industry, as well as U.S. agriculture and trade officials, also complain that the CWB's "monopoly" control over Canada's wheat trade permits it to practice discriminatory pricing in international markets, thereby gaining unfair competitive advantage over other wheat exporters. Because the CWB does not publicly report the terms and conditions of individual sales these charges have been difficult to prove. This alleged lack of transparency by the CWB has long been the subject of criticism in the United States. The CWB does not engage in wheat imports. However, according to U.S. trade officials, the Government of Canada has certain rules and regulations in place that discriminate against imported grains at grain elevators and within Canada's rail transportation system.

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[*] Prepared by Randy Schnepf, Analyst in Agricultural Policy, Resources, Science, and Industry Division.

These multiple allegations against Canadian wheat trading practices have led to a series of investigations by U.S. agriculture and trade authorities at various levels. In October 2000, the U.S. Trade Representative (USTR) initiated an investigation under Section 301 of the Trade Act of 1974 concerning the acts, policies, and practices of the CWB. The investigation was in response to a petition filed by the North Dakota Wheat Commission which charged that certain wheat trading practices of the Government of Canada and the CWB are unreasonable, and that such practices burden or restrict U.S. commerce.

In April 2001, the ITC initiated an investigation (No. 332-429, under Section 332(g) of the Tariff Act of 1930 as amended) which culminated in a December 2001 report that identified several features of the CWB which, as a State monopoly, afford it "unfair" market advantages over U.S. wheat exporters. Several members of Congress followed up on the ITC report with a January 21, 2002 letter to the USTR highlighting the key findings of the ITC report and recommending that the CWB be held accountable for its alleged unfair trade practices.

In October 2002, the ITC initiated a countervailing duty and antidumping investigation on durum and hard red spring wheat imports from Canada. The ITC investigation was in response to petitions filed by the North Dakota Wheat Commission, the Durum Growers Trade Action Committee, and the U.S. Durum Growers Association. U.S. millers and pasta makers dispute the allegations of price discounts on Canadian wheat and have expressed concern over potential trade restrictions that might limit their access to high quality grain supplies. On March 4, 2003, the U.S. Department of Commerce issued a preliminary finding of illegal CWB transportation subsidies and loan guarantees in the countervailing duty investigation, and imposed a provisional 3.94% punitive duty on Canadian durum and hard red spring wheat imports. A final determination is due July 15. In May, the Commerce Department is scheduled to decide whether to impose anti-dumping duties as well.

In December 2002, U.S. trade officials submitted a request for dispute settlement consultations with Canada via the Dispute Settlement Body of the WTO. U.S. trade officials have insisted that WTO trade provisions governing the trade behavior of state trading enterprises require them to undertake trade in a manner consistent with the general principles of non-discriminatory treatment as prescribed in the GATT 1994 (Article XVII). Consultations were held on January 31, 2003. During the consultations Canada expressed no willingness to make any modifications to its wheat trading practices. On March 6, the USTR announced the intention to seek formation of a WTO dispute settlement panel to examine the wheat trading practices of the Government of Canada and the CWB. Once a WTO dispute settlement panel is established, it must adhere to a disciplined time frame that will produce a final panel decision within one year without appeal or 15 months with appeal.

Role of Congress

Given the importance of wheat in the U.S. agricultural economy, Congress will be closely monitoring developments in the U.S.-Canada wheat dispute and the ITC countervailing duty and antidumping investigations on durum and hard red spring wheat imports from Canada. Congress will also be closely following WTO dispute settlement in this case.

For More Information

U.S. International Trade Commission. *Wheat Trading Practices: Competitive Conditions between U.S. and Canadian Wheat*, Publication 3465, report on investigation No. 332-429 under Section 332(g) of the Tariff Act of 1930 as amended, December 2001.
ftp://ftp.usitc.gov/pub/reports/studies/pub3465.pdf

Economic Research Service, USDA. "The Canadian Wheat Board," Canada briefing room. Http://www.ers.usda.gov/Briefing/Canada/wheatboard.htm

The U.S. dispute settlement case against the Canadian Wheat Board (DS276) is found under the listings of WTO Dispute Cases at: http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm

Meat and Poultry Trade Disputes*

Issue

The United States is one of the world's leaders in meat and poultry trade. Meat and poultry products are among the fastest growing components of U.S. agricultural exports. However, at the same time that the industries' reliance on foreign markets is increasing, some countries have instituted barriers that have disrupted exports, threatened future growth, and heightened trade tensions.

Background and Analysis

The United States is the world's leading producer, consumer, and importer of beef, and the second leading exporter, now holding 20% or more of the world export share, according to USDA. The United States is the third leading pork producer, consumer, importer and exporter, also with an approximately 20% market share. It is also the leading consumer, producer, and exporter of poultry meat, dominating global exports with about 45% of market share. Total red and poultry meat exports experienced strong annual gains for 16 years through 2001, reaching nearly 5 million metric tons (MMT) valued at $7.4 billion, before declining in 2002. Both red meat and poultry meat exports are expected to begin increasing again in 2003, USDA reports.

USDA analysts note that, while trade prospects look brighter, a number of uncertainties could hamper foreign (and domestic) demand, including sluggish economic conditions, and animal disease and food safety concerns in some markets, for example, beef demand in Japan was disrupted when that country in September 2001 reported its first cases of bovine spongiform encephalopathy (BSE or "mad cow disease"). Adding to these uncertainties are a number of existing or impending foreign-imposed import barriers in key export markets, which U.S. trade officials are working to reduce or eliminate. Following are various trade disputes of concern to the meat and poultry industries.

Russia. U.S. agriculture groups have expressed alarm over Russia's announcement that it will impose import quotas on poultry and tariff-rate quotas on beef and pork, all effective April 1, 2003. U.S. exports of poultry to Russia, by far our largest poultry customer, already had declined by approximately a third in 2002 after Russia banned them effective March 10, 2002, ostensibly out of concerns about product safety. U.S. interests charged that Russia was seeking to protect its domestic producers and also to retaliate against newly imposed U.S. tariffs on imported steel. After extensive negotiations, U.S. and Russian officials reached an agreement whereby Russian veterinarians would re-inspect and certify U.S. exporting plants by June 1, 2003. However, that process bogged down after the Russians failed many U.S. plants and no recent inspections have been scheduled, USDA reported. Russia's new import quota for poultry is expected to be 1.64 billion pounds annually, of which

* Prepared by Geoffrey S. Becker, Specialist in Agricultural Policy, Resources, Science, and Industry Division.

the United States would receive 1.22 billion pounds. In 2001, the United States exported a record 2.3 billion pounds of broiler products to Russia, USDA added. Although the United States does not sell much pork or beef to Russia, new tariff-rate quotas on these products would effectively block any future U.S. growth there, industry officials contend. In a February 14, 2003, letter, two dozen U.S. agricultural organizations called on the Administration to self-initiate a Section 301 investigation, which could lead eventually to trade retaliation.

Mexico. U.S. pork and poultry exports to Mexico are both jeopardized by developments in the wake of the scheduled January 1, 2003, end to import duties for those and other agricultural products under the North American Free Trade Agreement (NAFTA). In late January, the Administration announced an agreement on poultry that establishes a 6-month safeguard tariff-rate quota of 50,000 MT on U.S. chicken leg quarters with an over-quota tariff of 99%. The Administration is continuing to negotiate for a longer-term agreement to head off an ongoing Mexican safeguard investigation that could result in tariffs of up to 240% (*Inside U.S. Trade*, January 24, 2003; various USDA attache reports). Mexico, the United States' second largest pork market, also launched on January 7, 2003, an anti-dumping investigation of U.S. pork imports. Preliminary findings, expected as early as July 2003, could result in high duties and depress U.S. exports there. An anti-dumping case also is under way for beef, and a safeguard investigation could begin on beef cattle and breeding stock imports as well, *Inside U.S. Trade* has reported.

European Union. Among a number of longstanding trade disputes with the European Union is the EU's ban, in effect since 1989, on the import of U.S. beef produced with hormones. In 1997, the WTO ruled in favor of the United States that the EU cannot ban, without scientific justification, beef produced with hormones. The WTO authorized U.S. retaliation of $117 million in prohibitively high U.S. duties on a variety of EU agricultural imports. The EU offered to compensate the United States by enlarging the 20,000 ton quota for non-hormone treated beef in lieu of lifting the ban. The United States has maintained that compensation, unless contingent on removing the ban, is unacceptable.

Japan. The United States and other countries (Australia, New Zealand, and Canada) that export beef to Japan anticipate that Japanese tariffs on frozen and chilled beef imports will be increased sometime in 2003 to 50% from their current 38.5%. Under so-called "snapback" tariff provisions of the WTO trade rules, Japan can impose the higher tariffs if imports increase by 117%. Japan is expected to use, as the base period for calculating this increase, the time when Japanese consumption was unusually low due to the BSE outbreaks (see above). The higher tariffs could remain in effect until March 31, 2004, according to USDA officials.

Role of Congress

Generally, Congress conducts vigorous oversight over the Administration's conduct of trade policy. On the Russian meat and poultry issue, for example, many Members of Congress have signed onto letters to the President urging him to be more aggressive in resolving the problem. For example, Section 407 of the Trade and Development Act of 2000 (P.L. 106-200) directs the U.S. Trade Representative (USTR) periodically to revise the list of products subject to trade retaliation, on the

premise that rotating products subject to higher duties will expose a broader swath of an offending country's economy to penalties, thereby creating more pressure for compliance. This so-called "carousel" provision was enacted partly out of frustration over the EU beef hormone and other disputes, but the USTR so far has not employed the provision. Observers attributed USTR's restraint in using the carousel to U.S. concerns about possible EU retaliation against the United States in the U.S.-EU Foreign Sales Corporation dispute in which a WTO panel found the United States had violated WTO rules with its tax subsidies to off-shore U.S. business entities. An EU challenge to the carousel provision in WTO dispute settlement was not pursued.

Lawmakers also have withheld, or threatened to withhold, support for other Administration trade initiatives. The Administration has been seeking congressional support for granting permanent "normal trade relations" (PNTR) status to Russia, which it failed to obtain in 2002 largely due to the poultry dispute. Under the Jackson-Vanik amendment to the Trade Act of 1974 P.L. 93-618, section 410, NTR status for Russia must be renewed on a year-to-year basis, but the Administration wants to make it permanent so that the United States can take full advantage of any benefits gained if and when Russia joins the WTO.

Sweetener Disputes with Mexico[*]

Issue

Mutual recognition that NAFTA sugar provisions have not worked, prompted U.S. and Mexican negotiators to intensify efforts in mid-2002 to resolve two longstanding sweetener trade disputes. Talks remain stalled on two key issues–market access for Mexican sugar in the U.S. market and market access and sales of U.S. high fructose corn syrup in Mexico.

Background and Analysis

The United States imports sugar to cover the balance of its needs that the domestic sugar sector cannot produce – about 12% of consumption. The level of imports affects the domestic supply, and in turn, U.S. sugar prices and the functioning of the domestic sugar program. U.S. imports of sugar from Mexico are governed by NAFTA provisions, which Mexico, seeking additional access, began to dispute starting in 1997. Mexico's sugar industry, concerned that imports of a competing sweetener – high-fructose corn syrup (HFCS) – from the United States were increasingly displacing sales of Mexican sugar in its own market, succeeded in persuading its government in 1998 to impose high anti-dumping duties on imports of U.S.-produced HFCS. In response, the United States challenged these duties, taking advantage of trade dispute mechanisms under both NAFTA and WTO.

Negotiations on Mexico's sugar access did not begin in earnest until mid-2000, just before Mexico became eligible under NAFTA's "sugar side letter" to ship much more sugar duty free to the U.S. market than allowed to enter in earlier years. These negotiations faltered, as U.S. and Mexican negotiators disagreed over just how much sugar Mexico actually could ship north. Their disagreement centered on which version of NAFTA governed this issue. U.S. negotiators based their position on the sugar side letter struck in last minute talks between the U.S. Trade Representative and his Mexican counterpart in November 1993, just before the House voted to approve NAFTA. Mexican negotiators based their stance on the sugar provisions found in the NAFTA agreement concluded in August 1992 and signed by each country's president that December. Relatedly, the NAFTA and WTO dispute panels issued successive decisions questioning the process Mexico followed to impose its HFCS duties and called for changes. Mexico did not respond until April 2002, when it announced it would replace its anti-dumping duties with a quota on HFCS imports equal in quantity to the U.S. quota for Mexican sugar.

Legislation passed by Mexico's Congress on January 1, 2002, and still in effect, imposed a tax on soft drinks containing corn syrup but not sugar. This law has eliminated much of the market for U.S. HFCS imports to Mexico and jeopardized the viability of two U.S. companies located in Mexico that manufacture HFCS from U.S. corn. The U.S. corn and corn refining sectors viewed this action as a step back in

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[*] Prepared by Remy Jurenas, Specialist in Agricultural Policy, Resources, Science, and Industry Division.

negotiating a resolution to the HFCS dispute and have pressed Administration officials to persuade Mexican authorities to remove this tax. Subsequently, negotiators from both sides agreed to lay aside whether or not the sugar side letter applies, in favor of pursuing negotiations to arrive at a comprehensive, mutually acceptable sweetener agreement.

In July-September 2002, negotiators exchanged details of a prospective agreement. Though both sides appear to agree on some issues, differences remain on the length of a prospective agreement (temporary or permanent) and how to handle over-quota Mexican sugar exports to the U.S. market. The U.S. sugar industry seeks provisions that would apply beyond 2008 when sugar trade under NAFTA is scheduled to be completely liberalized, and that would restrain Mexican over-quota shipments. How these are resolved, in turn, will likely influence the terms reached on future U.S. HFCS sales to Mexico. Some observe that Mexico's interest in reaching an agreement in the short term has diminished, due to the small quantity of Mexican sugar available for export this year and the political dynamics associated with upcoming mid-term congressional elections in July. Also, with the Mexican Congress having adjourned in December 2002 without dropping the tax on soft drinks sweetened with corn syrup–viewed by the U.S. side as necessary to reach a comprehensive agreement–prospects for a quick resolution have faded.

Role of Congress

Members of Congress that represent the sugar and corn sectors continue to monitor developments in U.S.-Mexican sweetener negotiations. In letters to Administration officials, some have called for more movement in these talks. Most recently, on December 16, 2002, lawmakers called on the Administration to work toward an immediate conclusion to the negotiations, expressing particular concern about the growing economic fallout of no agreement on the U.S. corn and corn refining sectors.

For More Information

CRS Issue Brief IB95117, *Sugar Policy Issues* ("Sweetener Disputes with Mexico").

Appropriations for Agricultural Export and Food Aid Programs[*]

Issue

Congress is currently considering FY2004 appropriations for USDA's international activities. At issue are funding levels for agricultural export subsidies, export market development programs, export credit guarantees, and foreign food aid. Congress and the Administration have been at odds over the use of Commodity Credit Corporation (CCC) funds to finance food aid programs and over the Administration's decision in 2003 to begin phasing out food aid based on surpluses. WTO agriculture negotiations could result in restrictions on agricultural export and credit guarantee programs, the preservation of which the Trade Act of 2002 lists as an objective for the WTO agriculture negotiations. Any changes in these programs resulting from a trade agreement would ultimately be subject to congressional scrutiny under fast-track procedures for considering trade agreements.

Background and Analysis

The 2002 farm bill (P.L. 107-171) authorizes USDA to operate a number of programs to promote U.S. agricultural exports or to provide foreign food aid. The Foreign Agricultural Service operates USDA's international programs. These programs include: agricultural export subsidies, export market development, export credit guarantees, and foreign food aid. Legislative authority for most of these programs now extends to the end of 2007. Export subsidies, but not other types of export and food aid programs, are subject to reduction commitments agreed to in the 1994 Uruguay Round Agreement on Agriculture (URAA). On-going WTO agriculture negotiations are considering new rules and disciplines for export credit programs and food aid based on surpluses.

U.S. agricultural export subsidies include the Export Enhancement Program (EEP) and the Dairy Export Incentive Program (DEIP). Market promotion programs include the Market Access Program (MAP) and the Foreign Market Development or "Cooperator" Program (FMDP). Considered to be non-trade distorting, programs to promote exports are exempt from Uruguay Round reduction commitments. The FSRIA authorizes export credit guarantees by USDA's Commodity Credit Corporation (CCC) of $5.5 billion worth of farm exports annually, plus guarantees of an additional $1 billion for emerging markets through 2007.

The FSRIA also authorizes P.L. 480 Food for Peace programs and Food for Progress through FY2007. P.L. 480 Titles I (Trade and Development Assistance) and II (Emergency and Private Assistance) are the main vehicles for U.S. foreign food aid. Food for Progress (FFP) provides commodities to developing countries and emerging markets that are developing their private sectors. Another food aid program, Section 416(b), permanently authorized in the Agricultural Act of 1949, provides surplus

[*] Prepared by Charles E. Hanrahan, Senior Specialist in Agricultural Policy, Resources, Science, and Industry Division.

commodities for donation overseas. The 2002 farm bill also established a new food aid program, the McGovern-Dole International School Feeding and Child Nutrition Program.

Some of these programs, notably food aid provided under P.L. 480 and the salaries and expenses of USDA's Foreign Agricultural Service (FAS), require annual appropriations. Other programs (food aid other than P.L. 480, export subsidies, export market development, export credit guarantees) are funded or guaranteed by USDA's Commodity Credit Corporation (CCC) and do not require line item appropriations. Congress is presently considering proposals in the President's budget transmitted to Congress on February 3, 2003 for funding USDA export and food aid programs in FY2004. The President's budget estimates that agricultural export and food aid programs would have a program value of $6.2 billion. Of that amount, approximately $1.4 billion (for P.L. 480 and FAS) would require authorization of budget authority in an appropriations act; the rest would be funded by CCC borrowing from the Treasury.

The biggest item requiring authorization of budget authority is $1.185 billion requested for P.L. 480 Title II, the same as requested in FY2003. However, the President's budget request for Title II is less than the amount appropriated in FY2003. The farm bill authorized $100 million of CCC funding for the McGovern-Dole school feeding program in FY2003. Beginning in FY2004, however, the program will be funded by appropriations and the President requested $50 million for McGovern-Dole in FY2004. The President's budget envisions $151 million of CCC funding for FFP. That program level is expected to provide the minimum 400,000 tons of commodities in FFP required by the 2002 farm bill.

The President's budget assumes a program level of $28 million in FY2004 for EEP. The farm bill, however, allows EEP spending of $478 million, which is the maximum allowed under the World Trade Organization/Uruguay Round agreement on subsidy reduction commitments. EEP is capped at $28 million in FY2003 by P.L. 108-7, but for FY2004, unless Congress decides otherwise, USDA retains some flexibility to increase the level of EEP subsidies.. For DEIP, the budget expects a program level of $57 million for FY2004, an increase above the $36 million estimated for FY2003. The budget request assumes that the CCC will guarantees commercial financing of $4.2 billion of U.S. agricultural exports in FY2004. Consistent with the farm bill reauthorization of MAP, the budget provides for MAP funding of $125 million in FY2004. The budget assumes the farm bill authorized level of $34.5 million for FMDP in FY2004.

Role of Congress

Following House and Senate Appropriations Committee deliberations, spending measures will be brought to the floor of each chamber. In addition to hearings and congressional action on appropriations for USDA's international activities, several committees have indicated that they will be carrying out oversight of the Administrations's implementation of the export and food aid programs authorized in the 2002 farm bill. Some USDA agricultural export and food aid programs–especially USDA's export credit guarantee program–could be affected by agreements reached in WTO agriculture negotiations.

Many in Congress are closely following the WTO agricultural negotiations and the consideration being given to proposals to tighten multilateral restrictions on U.S. export credit programs which guarantee, on average, private financing of around $3 billion annually of U.S. agricultural exports. Under provisions established by the Trade Act of 2002 (P.L. 107-210), Congress and the Administration will be consulting on these negotiations and their implications for legislatively authorized programs.

For More Information

CRS Issue Brief IB980-06, *Agricultural Export and Food Aid Programs*.

CRS Report RL31301, *Appropriations for FY2003: U.S. Department of Agriculture and Related Agencies* (see section on "Agricultural Trade and Food Aid").

CRS Report RS21425, *The Administration's FY2004 Budget Request for the U.S. Department of Agriculture (USDA)* (see section on "Agricultural Trade and Food Aid").

CRS Report RS20285, *Agricultural Export Subsidies, Export Credits, and the World Trade Organization*.