

Understanding **THE FARM BILL**

U.S. WTO Commitments and the Farm Bill

The current debate over the 2007 U.S. Farm Bill is partly shaped by the World Trade Organization Agreement on Agriculture (AoA). Some members of Congress have claimed they would disregard WTO commitments. But the Bush Administration is seeking to rewrite the AoA and Farm Bill to assure their mutual compatibility in order to avoid a challenge at the WTO's Dispute Settlement Board (DSB).

WTO CHALLENGES OF THE FARM BILL

In 2004, Brazil won a DSB ruling against Farm Bill provisions for subsidizing U.S. cotton farmers and textile manufacturers. The U.S. claimed regulatory changes it made concerning cotton payments and export credit guarantees satisfied the ruling's recommendations. In late July, a WTO compliance panel disagreed in a confidential interim report that likely will become public in October or November. Brazil may request DSB authorization to retaliate against \$3 billion of exports for damages caused to Brazilian cotton producers and another \$1 billion as a result of "actionable" subsidies that are not explicitly prohibited but nonetheless were ruled to cause damage. Retaliation could take the traditional form of taxes imposed on U.S. exports to Brazil or less conventional retaliation concerning in-

tellectual property (e.g., not paying royalties on U.S. patents) or trade in services.

Brazil and Canada are seeking to influence the 2007 Farm Bill by beginning separate WTO disputes against how the U.S. counts its subsidies that foster over-production and thereby "distort" trade. The Brazilian and Canadian initiatives, launched this summer, cover Farm Bill payments for most years from 1996 to 2005. They charge that the U.S. exceeded its annual limit on subsidy payments. Brazil and Canada have suggested that current proposals for the 2007 Farm Bill might face further litigation.

U.S. IGNORING WTO REQUIREMENTS

Since 2001, the U.S. has reported neither the amount nor the classification of its subsidy payments, as required by the AoA. Hence, any WTO challenge will likely be more prolonged for dispute panelists trying to determine whether or not the U.S. exceeded the annual subsidies ceiling. Article 18.3 of the AoA requires new kinds of government payments, such as those in the 2002 Farm Bill, to be reported "promptly" both in terms of their WTO classification and payment amount. The AoA provides for no sanction for failure to report. The

U.S. refusal to notify such payments, though not unique, imperils the ability of WTO members to fulfill the AoA objective of a "fair and market-oriented agricultural trading system."

IATP'S BOTTOM LINE

IATP does not believe the U.S. will experience a tidal wave of AoA litigation, if only because of its extensive counter-retaliatory powers, particularly in bilateral trade and investment relations. IATP further has proposed new AoA rules to discipline agricultural export dumping and other anti-competitive business practices. Whether or not such new rules are agreed by WTO members, the viability of the trading system requires compliance with dispute rulings about the agreed rules. U.S. non-compliance with AoA notification rules and general resistance to compliance makes a mockery of the system.

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