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The 2008 Farm Bill and the Doha Agenda


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Introduction

The U.S. Congress voted a new Farm Bill into law on May 22, 2008. The legislation was greeted with a resounding "thumbs down" in Geneva, where the WTO has its headquarters. The negotiators' reaction echoed that of President Bush, who promptly vetoed the legislation, saying the Farm Bill would impede a conclusion to negotiations on the Doha Agenda at the WTO. Yet neither the House nor the Senate had any trouble securing well over the necessary two-thirds majority necessary to overthrow the veto the same day.

The Farm Bill, also known as the Food, Conservation and Energy Act of 2008, sets U.S. farm policy for the next five years. The legislation does nothing to help advance the already long-delayed and still blocked negotiations on agriculture in Geneva. And now the timing will only get worse: in early November, the U.S. will hold both Congressional and Presidential elections. The Trade Promotion Authority legislation, often referred to as "fast track," has expired. Trade has proved a hot and controversial topic in the primaries to choose Presidential candidates. President Bush supports free trade agreements and wants the WTO negotiations to succeed, but he has little political capital left to spend at home.

The United States is both a huge importer of food and agricultural commodities and a dominant exporter. U.S. policies have a big impact on world markets. Because the United States is such a dominant trading power, many members of the WTO were unwilling to agree to the proposed terms of the Doha Round negotiations on agriculture until Congress finished its Farm Bill negotiations. The following analysis offers some insight into how the Farm Bill might work in relation to the May 19 draft of the proposed Doha Agreement on Agriculture.

The Food, Conservation and Energy Act 2008

The Food, Conservation and Energy Act (Farm Bill of 2008) authorizes spending of up to $307 billion over five fiscal years starting October 1, 2008.

The 673-page bill encompasses 15 "titles." Each deals with a different area, including commodity programs, nutrition, research, livestock, conservation, trade and more. Approximately $209 billion is scheduled to be spent on "nutrition programs"—mostly domestic food aid or food stamps. The share of spending on the commodities title has dropped from 23 percent in the 2002 legislation to about 10 percent in 2008.[1] In addition, crop insurance programs have been allocated approximately 8 percent of the spending, or US$ 23 billion over five years. Projected spending on commodities, conservation and trade in the 2008 bill is between $72 and $74 billion, which is considerably less than actual spending on those items under the 2002 Farm Bill ($95 billion over five years).

The real cost of the 2008 Farm Bill is unpredictable, because the amount actually paid out varies with average annual market prices and crop yields, together with legislative target prices and the historic yield per acre in different regions. The funding mechanism is such that if spending is less than forecast, Congress is not at liberty to allocate the savings to fund other legislation. On the other hand, if market conditions push government expenditures above the forecast level, Congress can approve a "supplemental" appropriation without having to rewrite the Farm Bill. For example, Congress approved "emergency payments" when the economic projections that accompanied the 1996 Farm Bill failed to allow for the 30-40 percent price fall in program crops in 1997 that continued through 2001.

The 2008 Farm Bill introduces a new optional program for farmers called the Average Crop Revenue Election, or ACRE. ACRE is an income insurance program that is meant to protect farmers against both low yields and price drops. Crop insurance, including that covered in the Farm Bill, protects only against crop loss or low yields. ACRE would also protect against a price drop resulting from a policy not affecting yields, (e.g. removal of the U.S. tariff on ethanol imports). ACRE has also been presented as a way to make U.S. commodity programs more WTO compliant by factoring yield (and not just price) into domestic support payments. U.S. price-derived countercyclical payments (support to counter price drops) were ruled WTO illegal in the U.S. Upland Cotton Subsidies trade dispute. The ACRE link to average yield, however, makes it likely that other WTO members will seek to classify the program in the amber box, since part of the Aggregate Measures of Support formula includes "quantity of production" as an AMS payment factor (Agreement on Agriculture, Annex 3, paragraph 8). If ACRE is AMS classified, the U.S. could have difficulty meeting its proposed AMS reduction commitments.

The ACRE baseline is derived from the five-year state average yield (after removing the best and worst yield years) and two-year national average price for the most recent crop market years. ACRE pays out when the actual state revenue for the commodity is less than the revenue guarantee. It is still a countercyclical payment but modified by the yield factor. Farmers who opt for ACRE will forgo their right to parts of existing support programs, including 20 percent of direct payments and 30 percent of marketing loans.

The payment formula is based on the average annual market price for the crop concerned over the previous two years. The last two years, 2006 and 2007, saw record-high crop prices. The likely fall in commodity prices ahead could trigger very large payments to U.S. farmers under ACRE's provisions if a large number of farmers choose to sign up for the program. ACRE price, yield and program enrolment factors make it difficult to predict the amount of program payments the U.S. would report to the WTO Committee on Agriculture.

Implications for the Doha Negotiations

There is no simple correlation between Commodity Title payments and the WTO's AMS definitions, but for comparison, the current authorized limit for AMS for the United States is $19.1 billion per year; the U.S. commitment as of the May 19th version of the Doha agreement would reduce that to $7.6 billion per year.

In 1995, the U.S. spent less than its 2000 target of $19.1 billion, but in subsequent years, spending increased. Most experts agree that the U.S. broke its spending limits under WTO rules, but the U.S. notifications categorized spending in such a way as to impede accountability. However, the U.S. will not have to adjust its spending to conform with this much tighter spending limit on AMS because the 2004 July Agreement, now incorporated in the Doha Agreement on Agriculture proposals, allows countercyclical payments (that are part of the AMS under Uruguay AoA rules) to be moved to the Blue Box. Spending in the Blue Box is less constrained than the AMS. In other words, the U.S. will not have to reduce spending under the proposed Doha AoA rules. In fact, high commodity prices, such as those seen in the past year or two, have reduced spending levels considerably.

In terms of U.S. food aid programs, the 2008 legislation brings very little reform. President Bush has made several important attempts to reform U.S. food aid but failed to persuade Congress to adopt his reforms. For example, the President proposed a pilot program of $350 million over four years for local purchases, rather than U.S.-sourced food shipments; the Farm Bill authorizes only $60 million.

As for export credit guarantees, the 2008 Farm Bill eliminated the GSM-102 program of long-term export credit. It also removed the one percent cap on loan origination fees in the GSM-102 program. Both measures are intended to bring the U.S. into compliance with the WTO ruling in the U.S. Upland Cotton subsidies dispute. However, it is unclear what else the U.S. will do in response to the dispute ruling.

The central question for WTO delegates trying to finalize Doha is: what happens if the new Doha rules require changes to the Farm Bill? The legal answer is contained in U.S. Public Law 103-465. According to a Congressional Research Service interpretation of this law, "WTO agreements and adopted WTO rulings in conflict with [U.S.] federal law do not have domestic legal effect unless or until Congress or the Executive Branch, as the case may be, takes action to modify or remove the statute, regulation or regulatory practice at issue."

The unofficial U.S. Trade Representative (USTR) position in Geneva is that Congress will have to change the laws to accommodate any Doha agreement, but in practice the political outcome would be at best uncertain, especially without the force of trade promotion legislation that would require an all-or-nothing Congressional vote on the WTO agreements as a package.

USTR: Out on a Limb?

The U.S has gone to some trouble to show other WTO members that it is ready to complete the Doha Round by changing U.S. farm policy if necessary. Yet the negotiations over the 2008 Farm Bill showed that the Bush Administration does not have the political support to change the basic pillars of the 2002 farm legislation. The USTR dislikes U.S. agriculture policy but is not authorized to change it.

The USTR is a Presidential appointment (although confirmed by Congress). Presidents do not have a strong record of imposing their will over the Farm Bill. Instead, the process is firmly controlled by Congress.

There are, broadly speaking, two camps that negotiate trade-offs within the Farm Bill: the largely rural legislators who champion the commodities title, and the largely urban legislators who champion the domestic and overseas food aid programs (which bridge more than one title in the legislation). Each camp has its share of lobbyists and advocates, and little love is lost across the divide, but the understanding is that each side needs the other to secure the outcome they want for their specific programs. This means, for example, that spending for government-supported school lunch programs is secured by providing increased direct payment support for U.S. cotton growers. Such trade-offs explain why final legislation usually includes a solid majority of Congressional Representatives: the system has strong support from both political parties, and from rural and urban legislators, albeit for different reasons.

In the end, more than 500 U.S. organizations proclaimed their support for the Farm Bill, despite the criticisms of trade lobbyists who urged President Bush to veto the bill. President Bush has very record-low popularity ratings and many Republican candidates have shunned his support for the fall election campaigns.

Bottom Line

The 2008 Farm Bill indicates that the fundamental structure of U.S. support for agriculture is unchanged: it depends on output and market prices. The high commodities prices projected during the life of the Farm Bill (2008-2012) are likely to help the U.S. conform to the WTO's model of domestic support disciplines in the short-term. Yet, it is impossible to predict how the heady mix of speculative investment, higher oil and fertilizer prices, increasing climactic uncertainty and mounting water shortages will affect short-to-medium term prices.

Nothing in the 2008 legislation changes the basic structure of U.S. support, which will rise and fall in reaction to world prices. And the WTO rules are also fundamentally unchanged by the Doha proposals. These latest developments are yet another reminder of the urgent need to re-think agriculture trade policy, both in the U.S. and around the world.

Resources:

May 19, 2008 draft of the Agreement on Agriculture, www.tradeobservatory.org/library.cfm?refID=102778

Senate-House Conference Report on the Farm Bill, http://agriculture.senate.gov/

More analysis of the U.S. bid to expand the Blue Box can be read here: http://www.tradeobservatory.org/library.cfm?RefID=77195.

Jeanne J. Grimmett. "WTO Decisions and Their Effect in U.S. Law." Congressional Research Service Report (RS22154) January 30, 2007.

[1] University of Nebraska – Agriculture Extension. Cropwatch. May 23, 2008. http://cropwatch.unl.edu/archives/2008/crop12/agnews_farmbill.htm.

Actual numbers vary; the legislation is new and the different spending estimates do not all match up.