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# WTO Disciplines of Domestic Support for Agriculture

Trade is critical to the U.S. agricultural sector—exports account for about 20% of total U.S. agricultural production. Some commodities, such as cotton, wheat, and soybeans, have export shares of nearly 50% or greater. As a member of the World Trade Organization (WTO), the United States has committed to abide by WTO rules and disciplines, including those that govern domestic farm policy.

## WTO Disciplines of Domestic Support

A farm support program can violate WTO commitments in two principal ways—first, by exceeding spending limits of certain market-distorting programs, and second, by generating distortions that spill over into the international marketplace and cause significant adverse effects.

### The Agreement on Agriculture (AoA)

The WTO's AoA spells out the rules for countries to determine whether their policies for any given year are potentially trade-distorting, how to calculate the costs of any distortion, and how to report those costs to the WTO in a public and transparent manner.

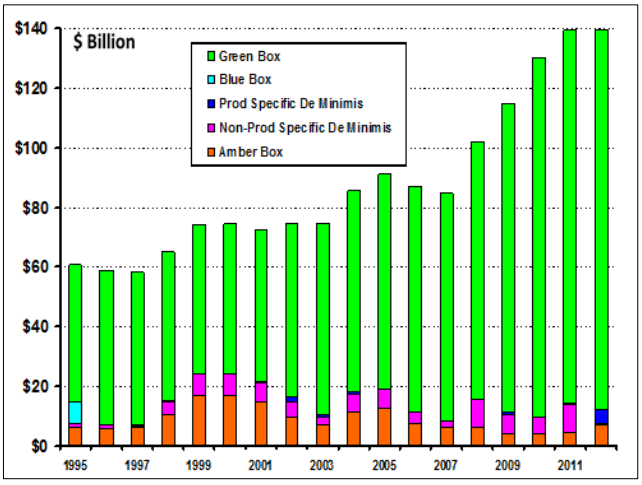
#### WTO Classification of Domestic Support Programs

The WTO uses a traffic light analogy to group programs.

- **Green Box** programs are minimally or non-trade distorting and ***are not*** subject to any spending limits.
- **Blue Box** programs are described as market-distorting but production-limiting. Payments are based on either a fixed area or yield, or a fixed number of livestock, and are made on less than 85% of base production. As such, blue box programs ***are not*** subject to spending limits.
- **Amber Box** programs are the most market-distorting programs and ***are*** subject to strict aggregate annual spending limits. They are cumulatively measured by the aggregate measure of support (AMS).
- Prohibited (i.e., **Red Box**) programs include certain types of export and import subsidies and non-tariff trade barriers that are not explicitly included in a country's WTO schedule or identified and accepted in the WTO legal texts.
- ***De minimis* exemptions** are spending that is sufficiently small (less than 5% of the value of production)—relative to either the value of a specific product or total production—to be deemed benign.

By leaving no constraint on spending in the green box while imposing limits on AMS spending, the WTO encourages countries to design their domestic farm support programs to be more green box compliant and less market distorting. The majority of U.S. domestic agricultural support outlays have been categorized as green box (**Figure 1**) and thus not subject to the amber box limit.

**Figure 1. U.S. Domestic Spending by WTO Category**

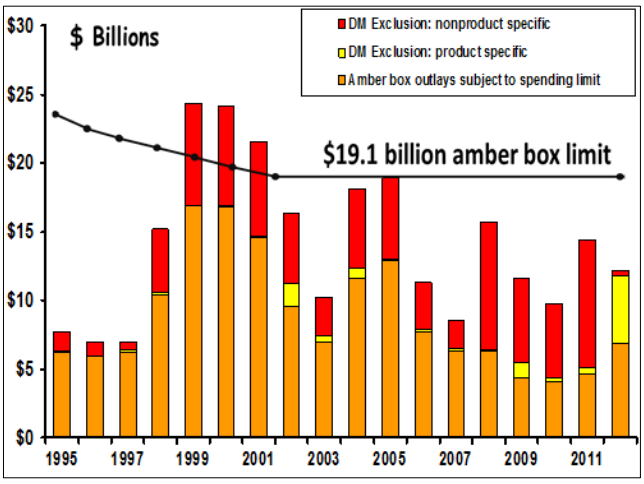



**Source:** U.S. annual notifications to the WTO.

**Notes:** U.S. notifications are complete through 2012.

Under the AoA, U.S. amber box (AMS) outlays are limited to no more than $19.1 billion annually, but are subject to *de minimis* exemptions. Most U.S. price and income support outlays have been notified as amber box: either product- or non-product-specific (**Figure 2**). An exception was direct payments (DPs), which were notified as decoupled green box, and thus excluded from the AMS limit. However, DPs were repealed by the 2014 farm bill (P.L. 113-79).

**Figure 2. U.S. Amber Box Outlays, *De Minimis* Exclusions, and the WTO Spending Limit**




**Source:** U.S. annual notifications to the WTO through 2012.

**Notes:** The current U.S. amber box limit is $19.1 billion.

Since 1995, the United States has stayed within its AMS limits (**Figure 2**). However, U.S. compliance has hinged on judicious use of the *de minimis* exemptions in a number of years (e.g., 1999-2001 and 2005) to exclude substantial

amber box spending (including crop insurance subsidies) from counting against the AMS limit.

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

In addition to payment limits, a market-distorting program may be challenged under the WTO's SCM rules when the program's effects spill over into international markets—that is, if it can be established that a subsidy causes significant adverse market effects.

#### SCM Rules on Adverse Market Effects

Based on past WTO decisions, several criteria are used to establish whether a subsidy for a particular commodity could result in significant market distortions with resultant adverse effects. First, the subsidy must meet the following criteria:

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

Then the "market distortion" of a policy must have measurable market effects on trade and/or market price for the commodity:

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

For an SCM violation to be meaningful, another WTO member country must successfully challenge the violation under the WTO dispute settlement process.

#### Dispute Settlement Understanding (DSU)

The WTO DSU provides a means for members to resolve trade disputes. For a farm program that is challenged under the SCM, members must first attempt to settle their dispute through consultations, but if these fail, the challenging member may request a WTO dispute settlement panel to review the matter. The panel will review relevant trade and market data and make a determination of whether the program resulted in a significant market distortion. Following the SCM guidelines cited above, a subsidy may be found to be actionable or prohibited.

**WTO actionable subsidies** (i.e., policies that incentivize overproduction and result in lower market prices or altered trade patterns) must be withdrawn or altered to minimize or eliminate the subsidy's distorting aspect.

**WTO prohibited subsidies** (i.e., certain export- and import-substitution subsidies) must be stopped or withdrawn "without delay" in accordance with an abbreviated timetable.

If the violating policies are not withdrawn or altered according to the timetable announced by the WTO ruling panel, then the WTO member bringing the challenge may take appropriate countermeasures.

## U.S. Policy Choices Under Scrutiny

Because U.S. farm commodities play such important roles in so many markets, U.S. farm policy is often subject to intense scrutiny both for compliance with WTO rules and for its potential to diminish or impede the success of future multilateral negotiations—in part because a farm bill locks in U.S. policy for several years, during which it would be difficult to accept new restrictions on U.S. farm programs.

### WTO Cotton Case—The Ultimate Example

The importance of SCM rules was made salient by the "WTO cotton case," in which a WTO dispute settlement panel ruled against both U.S. cotton support programs and GSM-102 export-credit guarantees. As a result of the ruling and the potential for WTO-sanctioned retaliation, the United States made substantial policy changes to bring the related programs into WTO compliance.

### Evaluating WTO Compliance

Based on AoA and SCM rules, a farm program can be evaluated against five successive questions to determine how it is classified, whether spending is within the AMS limit, and whether it is vulnerable to WTO challenge.

1. Do outlays qualify for the green box?
2. Do outlays qualify for the blue box?
3. If amber, do outlays qualify for *de minimis* exclusion?
4. Are remaining amber box outlays less than the $19.1 billion amber box limit?
5. Even if within AoA limits, does the program result in adverse effects in the international market?

### 2014 Farm Bill Changes U.S. Farm Policy Direction

Current U.S. farm policy is authorized by the 2014 farm bill through FY2018. The 2014 farm bill made substantial changes to the farm safety net, including repeal of decoupled (and green box) DPs and the creation of new shallow-loss programs. However, USDA has not yet announced what WTO classification it will give spending under the new programs, and their potential market effects remain unknown. Furthermore, outlays under the first year of the new programs—2014—will likely not be notified by USDA until early 2017.

## More Information

For more analysis, see CRS Report R43817, *2014 Farm Bill Provisions and WTO Compliance*, CRS Report RS20840, *Agriculture in the WTO: Rules and Limits on Domestic Support*, CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*, and CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*.

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