U.S. Farm Support: Outlook for Compliance with WTO Commitments, 2018 to 2020

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SUMMARY

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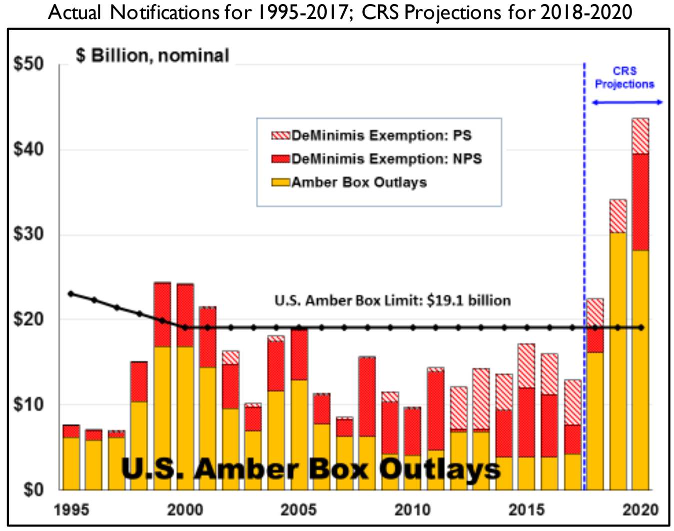
U.S. outlays for market-distorting domestic farm support could exceed the annual U.S. spending limit of $19.1 billion in both 2019 and 2020. As a member of the World Trade Organization (WTO) agreements, the United States has committed to abide by WTO rules and disciplines, including those that govern domestic farm policy as spelled out in the Agreement on Agriculture (AoA). The United States agreed to the annual spending limit as part of its commitments to other WTO members. Since establishment of the WTO on January 1, 1995, the United States has complied with its WTO spending limits on market-distorting types of farm program outlays (referred to as amber box spending). However, since 2018, the U.S. Department of Agriculture (USDA) has initiated several large ad hoc spending programs—valued at up to $60.4 billion—in response to international trade retaliation in 2018 and 2019, and to economic disruption caused by the coronavirus disease pandemic in 2020. The combination of ad hoc payment programs and existing farm program support could push domestic farm support outlays above the U.S.'s own commitment to the World Trade Organization and its members.

Compliance with WTO commitments is based on aggregate spending levels for each crop year. The United States committed to limiting U.S. amber box outlays (i.e., those outlays deemed market distorting) to $19.1 billion annually; de minimis exemptions may reduce the calculation of amber box outlays. Under de minimis exemptions, if domestic support is sufficiently small it may be deemed benign and excluded from counting against the amber box spending limit. Two de minimis exemptions are available: product-specific—if aggregate domestic support for a specific commodity is less than 5% of its value; and non-product-specific—if total domestic support on general programs (not associated with specific commodities) is less than 5% of the value of total agricultural output. Between 1995 and 2017, the United States has stayed within its amber box limits. However, U.S. compliance relied on the use of the de minimis exemptions in a number of years to exclude certain farm support payments from counting against the amber box limit.

U.S. Compliance with WTO Spending Limit

Actual Notifications for 1995-2017; CRS Projections for 2018-2020



Source: Data for 1995-2017 are from official USDA notifications to the WTO. Data for 2018-2020 are compiled by CRS from USDA spending projections supplemented by other sources cited in the text and based on historic notification and exemption trends.

Notes: The two de minimis exemptions are: PS=product specific; and NPS=non-product-specific.

CRS has evaluated the potential compliance status for U.S. domestic spending for each of 2018, 2019, and 2020, based on available program data through mid-2020 from USDA's Farm Service Agency, supplemented by forecasts of final 2020 USDA outlays by USDA's Economic Research Service and the Food and Policy Research Institute (FAPRI) of the University of Missouri. In addition to outlays under traditional farm support programs, this evaluation includes spending data and forecast outlays under the 2018 and 2019 Market Facilitation Programs (MFPs) and the two 2020 Coronavirus Food Assistance Programs (CFAP-1 and CFAP-2). The evaluation also includes potential spending on farm support from the Small Business Administration's Paycheck Protection Program (PPP). USDA has not notified the WTO of its domestic support spending for 2018, 2019, or 2020, nor has it indicated how it will classify outlays under these new ad hoc spending programs. As a result, CRS relies on precedent of how similar program spending has been classified and notified to the WTO in the past.

If the United States were to exceed its WTO annual spending limit, then offending farm programs (whether ad hoc or traditional) could be vulnerable to challenge by another WTO member under the WTO's dispute settlement rules. However, if the payment programs that appear likely to cause the United States to exceed its WTO spending limits in 2019 and 2020 prove to be temporary, then a successful WTO challenge might not necessarily result in an adverse ruling against the United States or any other authorized retaliation (e.g., permission to raise tariffs on U.S. products), depending on the outcome of a WTO dispute settlement proceeding.

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Introduction

The long-term objective of the World Trade Organization's (WTO's) Agreement on Agriculture (AoA) is to establish a fair and market-oriented agricultural trading system.[1] The principal approaches for achieving this goal are, first, to achieve specific binding commitments by all WTO members in each of the three pillars of agricultural trade policy reform—market access, domestic support, and export subsidies—and second, to provide for substantial progressive reductions in domestic agricultural support and border protection from foreign products.

As a signatory member of the WTO agreements, the United States has committed to abide by WTO rules and disciplines, including those that govern domestic farm policy as defined in the AoA.[2] Since the WTO was established on January 1, 1995, the United States has generally met its WTO commitments with respect to allowable spending on market-distorting types of farm program outlays.

What Is the Issue?

The U.S. government provided up to $60.4 billion in ad hoc payments to agricultural producers cumulatively in 2018, 2019, and 2020, in addition to existing farm support. These payments have raised concerns among some U.S. trading partners, as well as market watchers and policymakers, that U.S. domestic farm subsidy outlays might exceed its annual WTO spending limit of $19.1 billion in one or more of those three years.[3]

Compliance with WTO commitments is based on the total spending under all U.S. farm support programs for each crop year, but subject to certain exemptions (described below). From 1995 through 2017, the United States has met its WTO commitments; however, this compliance has relied on use of the available exemptions in several years to exclude certain domestic support spending from counting against the spending limit.

The United States notified an average of $15.4 billion in annual domestic farm support (prior to exemptions)—or cumulatively, $46.1 billion—during the recent three-year period from 2015 to 2017.[4] New spending of up to $60.4 billion under U.S. government ad hoc payment programs—that the United States may have to report, and which would be in addition to the traditional farm support programs—could more than double the amount of annual domestic support subject to the spending limit in 2018 through 2020. This new ad hoc spending includes the 2018 Market Facilitation Program (MFP), valued at $8.6 billion; the 2019 MFP, valued at $14.5 billion; the two 2020 Coronavirus Food Assistance Programs (CFAP-1 and CFAP-2), valued at up to $16.0 billion and up to $14.0 billion, respectively; and the 2020 Paycheck Protection Program's (PPP's) forgivable loans to agricultural interests, valued at $7.3 billion.[5]

[1] The WTO is a global rules-based, member-driven organization dealing with the rules of trade between nations. As of July 29, 2016, the WTO included 164 members. See CRS Report R45417, *World Trade Organization: Overview and Future Direction*.

[2] For an overview, see CRS Report R45305, *Agriculture in the WTO: Rules and Limits on U.S. Domestic Support*.

[3] For a description of traditional farm support programs, see CRS Report R45730, *Farm Commodity Provisions in the 2018 Farm Bill (P.L. 115-334)*.

[4] 2017 is the last year for which the United States has made an official notification to the WTO of its domestic support outlays, by program and by commodity, and their compliance with WTO rules. Funding in nominal dollars.

[5] Outlays under the CFAP-1 and CFAP-2 are not finalized, but are expected to be less than the available funding levels (actual outlays are estimated at $11 billion and $13.3 billion, respectively, as discussed in this report). Recipients of PPP loans must meet certain criteria to qualify for "loan forgiveness." USDA anticipates that $5.8 billion out of $7.3

CRS analysis (described in this report and based on available data) indicates that U.S. domestic farm support outlays were likely within the agreed-to WTO spending limit of $19.1 billion in 2018, but could exceed the limit in 2019 depending on the U.S. Department of Agriculture's (USDA's) notification strategy. In 2020, U.S. non-exempt domestic support outlays appear likely to surpass the spending limit if a typical notification strategy is used by USDA.

Report Objectives

This report examines whether the United States might exceed its WTO spending limit during any of the three years from 2018 through 2020. As background, this report briefly reviews the WTO rules and disciplines on farm program spending.[6] Then, it reviews the types of U.S. farm programs that are subject to WTO disciplines—in particular, it focuses on programs that make direct payments to agricultural producers. The review of farm programs includes a discussion of how U.S. compliance may be affected by the large ad hoc direct payment programs initiated by the Secretary of Agriculture during 2018 through 2020, and other spending on farm support authorized by Congress in response to the COVID-19 pandemic.

The nature and timing of U.S. farm support program outlays are discussed in the context of relevant WTO commitments—in particular, how different types of program outlays are notified to the WTO and how they might count against the aggregate U.S. spending limit. Finally, this report examines current projections about farm program outlays for 2018 through 2020, and assesses the possibility of whether U.S. farm program spending might exceed the $19.1 billion spending limit in those years.

The United States has notified its domestic support outlays through the 2017 crop year.[7] Projected outlays for 2018 through 2020 are based on available data on program spending through mid-2020 from USDA's Farm Service Agency (FSA), supplemented by forecasts of final 2020 USDA program outlays by USDA's Economic Research Service (ERS) and the University of Missouri's Food and Policy Research Institute (FAPRI) (as described later in the report). The as-yet-to-be-notified program spending for 2018 through 2020 is classified under the various WTO spending categories based on the assumption that USDA will notify similar new program outlays in accordance with historical precedent. Available WTO exemptions are then applied to the program outlays so as to minimize the aggregate outlays that count against the spending limit. Finally, the compliance status for U.S. domestic spending is made by comparing the remaining, non-exempt aggregate program spending for each crop year, 2018 through 2020, to the $19.1 billion spending limit.

WTO Disciplines on Farm Program Spending

Farm support programs can violate WTO commitments in two principal ways: first, by exceeding spending limits on certain market-distorting programs, or second, by generating market distortions in the international marketplace and causing significant adverse effects for other market participants. A full treatment of the compliance of U.S. farm support outlays with WTO

billion (79.5%) of PPP loans to agricultural interests will be forgiven. USDA has not yet notified domestic support spending for 2018-2020, nor has it indicated how it will classify outlays under these new ad hoc spending programs. These classifications can be critical to determining compliance with the spending limit, as discussed later in this report.

[6] For details, see CRS Report R45305, *Agriculture in the WTO: Rules and Limits on U.S. Domestic Support*.

[7] WTO, "U.S. Notification of Domestic Support for Marketing Year 2017," G/AG/N/USA/135, July 24, 2020.

commitment would evaluate both of these criteria. This report focuses on the first potential pathway for a violation: spending exceeding the U.S. limit.[8]

WTO member nations have agreed to limit spending on their most market-distorting farm policies. The WTO's AoA spells out the rules for countries to determine whether their policies 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. (See the text box "WTO Classification of Domestic Support" below.) To provide for monitoring and compliance of WTO policy commitments, each WTO member is expected to submit annual notification reports of domestic support program spending within the context of the agreed-to WTO commitments.[9]

Domestic farm subsidies under the AoA are measured in monetary terms using a specially defined indicator, the "Aggregate Measurement of Support" (AMS). AMS encompasses two types of support provided as a benefit to agricultural producers: product-specific support (i.e., benefits linked to a specific commodity) and non-product-specific support (general benefits not linked to a specific commodity). This distinction is important for evaluating compliance and exemptions.

The United States, along with 27 other original members of the WTO, agreed to establish ceilings for their non-exempt AMS—also referred to as the amber box spending (exemptions are described below). The U.S. ceiling for amber box spending has been fixed at $19.1 billion since 2000. If the United States were to exceed this limit, then U.S. farm support programs could be vulnerable to challenge by another WTO member under the WTO's dispute settlement rules.

Some Program Spending May Be Exempt from Disciplines

Not all farm support program outlays count against amber box spending limits. Some types of programs deemed to be non- or minimally-market distorting (such as food assistance and conservation programs) are designated as green box, and thus are not included as part of the AMS.[10] Outlays for other programs may be excluded from the AMS calculation if they comply with production-limiting criteria defined under the blue box. Finally, some domestic support spending that is part of the AMS may be exempt from counting against any WTO spending limit if the sum is sufficiently small as to be deemed benign under the de minimis exemption. These exemptions are described below.

WTO Classification of Domestic Farm Support Payments

The WTO classifies program spending according to the degree of market distortion.

Aggregate Measurement of Support (AMS) sums in monetary terms the market-distorting program outlays. AMS encompasses two types of support provided as a benefit to agricultural producers: product-specific support (i.e., benefits linked to a specific commodity) and non-product-specific support (general benefits not linked to a specific commodity). Certain program spending may be excluded from the AMS by green or blue box criteria (see below). AMS outlays may also be eligible for exemption from counting against spending limits if they are below product- or non-product-specific de minimis 5% spending thresholds (see below).

- **Amber box** outlays are non-exempt AMS (i.e., AMS after accounting for permissible exemptions). Amber box outlays ***are*** subject to aggregate annual spending limits. The United States has committed to a spending limit of $19.1 billion for amber box outlays. In its 2017 notification—its most recent (see **Table 3** at the end of this report), the United States declared $12.9 billion of AMS outlays prior to exemptions, of which only $4.2 billion counted against the amber box spending limit due to de minimis exemptions (see below).

[8] For a discussion of the second pathway—market distortions—see CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*.

[9] WTO, AoA, Article 18, "Review of the Implementation of Commitments."

[10] Green box programs are defined by Annex II of the AoA.

- **Green box** programs are minimally or non-trade distorting and ***are not*** subject to any spending limits. In its 2017 notification, the United States declared $118.2 billion in green box outlays, including $99.6 billion in domestic food assistance programs.
- **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. The United States presently has no blue box programs.
- ***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 and, thus, excluded from counting against the amber box limit. In it 2017 notification, the United States declared a total of $8.7 billion in de minimis exemptions, including $5.2 billion in product-specific and $3.4 billion in non-product-specific exemptions.

Program Design—Whether PS or NPS—Is Critical

It is critical to distinguish between product-specific (PS) and non-product-specific (NPS) support under the WTO categorization of domestic support.[11] PS and NPS outlays are subject to different potential de minimis exemptions when calculating the total amber box outlay. PS outlays are evaluated at the individual product level separately for each commodity, whereas NPS outlays are evaluated at the national level across all commodities simultaneously.

For example, suppose that U.S. farm subsidy payments to corn producers were $2.5 billion in a year, but that the value of total U.S. corn production was $60 billion that same year. Then the PS de minimis threshold for corn would be $3 billion (i.e., $60 billion x 5%), and the $2.5 billion in corn subsidies would be excluded from the AMS calculation for that year.

Similarly, suppose that total NPS support for a year—including outlays under the Agricultural Risk Coverage (ARC), Price Loss Coverage (PLC), and other NPS programs—was $19 billion.[12] If the total value of U.S. agricultural output, across all of the various field and specialty crops and livestock activities, was at least $380 billion, then the entire NPS subsidy value would be excluded because it would not exceed the NPS de minimis limit of $19 billion (i.e., $380 billion x 5%).

If PS or NPS domestic support outlays exceed their de minimis thresholds by as much as a dollar, then the entire outlay is included as part of the amber box total that counts against the spending limit. From 1995 through 2017, the United States has met its WTO commitments; however, this compliance has hinged on judicious use of the available PS and NPS de minimis exemptions in a number of years—including 1999, 2000, and 2001 (**Figure 1**)—to exclude certain domestic support spending from counting against the spending limit.

U.S. Farm Support Programs

USDA farm programs with direct payments can be divided into two categories based on their underlying authority: (1) traditional farm support programs that are authorized under periodic omnibus legislation known as a "farm bill,"[13] and (2) ad hoc programs initiated or authorized outside of traditional omnibus farm legislation. Farm payment programs, separated into these two

[11] For a detailed description of PS and NPS categorization of U.S. farm programs, see CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*.

[12] ARC and PLC programs are notified as NPS since payments are made to historical base acres rather than to current planted acres (i.e., current crop choices); thus the producer does not need to plant the commodity to receive a payment under the program. For details, see CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*.

[13] See CRS In Focus IF11126, *2018 Farm Bill Primer: What Is the Farm Bill?*

categories, are briefly described in terms of the expected payment amounts, the timing of payments, and whether the payments are likely to be notified by USDA as either product-specific (PS) or non-product-specific (NPS).

Traditional Farm Support Programs

Title I of the 2018 farm bill (P.L. 115-334) authorizes the current suite of farm support programs.[14]

- **Farm revenue support programs** include the Market Assistance Loan (MAL), Agricultural Risk Coverage (ARC), Price Loss Coverage (PLC), Dairy Margin Coverage (DMC), and sugar programs. Payments under these programs during crop years 2014-2018 were authorized by the 2014 farm bill (P.L. 113-79).[15] These programs were modified by the 2018 farm bill and include payments for crop years 2019-2023. Because of the way the payments are triggered, outlays under the MAL, DMC, and sugar programs are coupled to producer choices and are notified as product-specific AMS.[16] In contrast, ARC and PLC payments are decoupled from producer crop choices and are notified as non-product-specific AMS.[17]
- **Permanent disaster assistance programs** include the Livestock Forage Disaster Program (LFP), Livestock Indemnity Program (LIP), Tree Assistance Program (TAP), and Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP).[18] Payments under all of these permanent disaster assistance programs are coupled to producer choices and notified as product-specific AMS.
- The **federal crop insurance program** provides premium subsidies to producers.[19] Premium subsidies are statutorily defined as a percentage of a policy's total premium, and premiums vary with insured units, coverage levels, and crop values. Since 2012, USDA has notified crop insurance premium subsidies to the WTO as product-specific AMS for the majority of policies sold,

[14] In 2018, the United States enacted P.L. 115-334, the five-year omnibus 2018 farm bill. It covers a broad range of agriculture-related program areas in 12 separate titles. The first title, Commodities, authorizes the farm programs that make direct payments to eligible producers and are notified as AMS—including the revenue support programs for major program crops. See CRS Report R45730, *Farm Commodity Provisions in the 2018 Farm Bill (P.L. 115-334)*. Outlays under these commodity programs have been notified by USDA to the WTO for the years 2014 through 2017, thus their WTO classifications are already well established.

[15] The DMC was created under the 2018 farm bill, and is a modification of the Margin Payment Program created under the 2014 farm bill.

[16] *Coupled* means that payments are linked to current producer behavior. In contrast, decoupled payments are not linked to producer behavior but are instead based on some other measure outside of the producer's decision making sphere, such as historical acres planted to program crops. Coupled payments have the most distortive influence on producer behavior. Decoupling of payments is intended to minimize their incentives on producer behavior.

[17] For a discussion of ARC and PLC classification under WTO AMS categories, see CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*.

[18] LFP, LIP, TAP, and ELAP are permanently authorized by the 2014 farm bill. See CRS Report RS21212, *Agricultural Disaster Assistance*.

[19] Federal crop insurance is permanently authorized by the Federal Crop Insurance Act of 1980 as amended (7 U.S.C. §1501 et seq.). See CRS Report R45193, *Federal Crop Insurance: Program Overview for the 115th Congress*.

since they are coupled directly to producer crop choices.[20] Only whole farm revenue insurance is notified as non-product specific support.

Ad Hoc Farm Support Programs

U.S. agriculture has benefited from five major ad hoc payment programs since 2018 that include both PS and NPS payment components. Four of these programs (the 2018 and 2019 Market Facilitation Programs (MFPs), and the first and second rounds of the 2020 Coronavirus Food Assistance Program (CFAP-1 and CFAP-2) have been initiated by USDA under authorities outside of major omnibus farm legislation, while a fifth program (the Small Business Administration's Paycheck Protection Program) was authorized under non-farm bill legislation (the Coronavirus Aid, Relief, and Economic Security Act or CARES Act; P.L. 116-136). Each of these ad hoc programs is briefly summarized:

- the **2018 MFP** made $8.6 billion in product-specific payments on nine commodities including 7 crops (corn, cotton, sorghum, soybeans, wheat, fresh sweet cherries, and shelled almonds) harvested in 2018, on hog inventories from mid-2018, and on historical milk production;[21]
- the **2019 MFP** made $14.5 billion in payments, including $12.8 billion in non-product-specific support based on a single-weighted-county payment rate for 29 field crops[22] and a single-weighted-payment rate for 6 tree nuts (almonds, hazelnuts, macadamia nuts, pecans, pistachios, and walnuts) harvested in 2019; and $1.7 billion in product-specific payments based on 6 commodities including cranberries, ginseng, fresh sweet cherries, and table grapes harvested in 2019, on hog inventories from mid-2019, and on historical milk production;[23]
- the **2020 CFAP-1** is expected to make payments of $11.0 billion,[24] including $4.0 billion in product-specific payments on 138 different commodities based on on-farm inventories from the 2019 harvest (assigned to crop year 2019), and $7.0 billion in product-specific payments to unsold inventories in 2020 of livestock (cattle, hogs, lamb, and sheep) and dairy (assigned to crop year 2020);[25]
- the **2020 CFAP-2** is expected to make up to $14.0 billion in product-specific payments on an expanded list (of at least 150 commodities) of 2020 crop and livestock products (assigned to crop year 2020);[26] and

[20] Prior to 2012, crop insurance outlays were notified as "net indemnities" that comprised total indemnity payments minus the producer-paid share of premiums. These net indemnities were classified as NPS AMS outlays and excluded from counting against the amber box spending limit under the NPS de minimis exemption.

[21] Payments are as of September 18, 2020; CRS Report R45310, *Farm Policy: USDA's 2018 Trade Aid Package*.

[22] Alfalfa hay, barley, canola, corn, crambe, dried beans, dry peas, extra-long-staple cotton, flaxseed, lentils, long- and medium-grain rice, millet, mustard seed, oats, peanuts, rapeseed, rye, safflower, sesame seed, small and large chickpeas, sorghum, soybeans, sunflower seed, temperate japonica rice, triticale, upland cotton, and wheat.

[23] See CRS Report R45865, *Farm Policy: USDA's 2019 Trade Aid Package*.

[24] CFAP-1 was funded at up to $16 billion; however, as of September 24, 2020, only $10.3 billion had been disbursed. Since sign-up for CFAP-1 closed on September 11, 2020. FAPRI (#05-20, September 2020) projects that final payments will be $11 billion. CRS has adopted the FAPRI projection of $11 billion.

[25] See CRS Report R46395, *USDA's Coronavirus Food Assistance Program (CFAP) Direct Payments*.

[26] USDA projects outlays of $13.3 billion after adjusting for expected participation and payment limits; USDA, "Coronavirus Food Assistance Program 2, Cost-Benefit Analysis," September 18, 2020; and USDA, "Coronavirus Food Assistance Program, Final Rule" Federal Register, Vol. 85, No. 184, September 22, 2020, p. 59380; https://www.farmers.gov/cfap.

- the **2020 Paycheck Protection Program's (PPP's)** forgivable loans to agricultural interests valued at $7.3 billion include $3.6 billion to product-specific production activities and $3.7 billion to non-product-specific activities (assigned to crop year 2020).[27]

In addition to direct producer payments, both the 2018 and 2019 MFPs included two additional components—the Food Purchase and Distribution Program (FPDP) and the Agricultural Trade Promotion (ATP) program. The FPDP was valued at $1.2 billion under the 2018 MFP and $1.4 billion under the 2019 MFP, while the ATP was valued at $0.2 and $0.1 billion, respectively.

USDA food purchase and distribution programs have historically been notified to the WTO as green-box-compliant and thus not subject to any spending limit. Trade promotion programs, such as ATP, are not notified under domestic support because they do not involve direct payments to producers. Thus, the FPDP and ATP programs are not included in the AMS calculations presented in this report.

The two Coronavirus Food Assistance Programs also included food purchase and distribution programs known as the "Farmers to Families Food Box" programs. As with the FPDP program under MFP, the Food Box program is excluded from the AMS calculations in this report.

U.S. Farm Program Spending, 2015-2020

The United States has notified its domestic support spending to the WTO for crop years 1995 through 2017.[28] A summary of the 2017 notification is included in **Table 3** at the end of this report. Precedent serves as a guide for projecting and classifying major U.S. program outlays for the years 2018-2020 (**Table 1** and **Table 2**).

Program outlays for the 2018 and 2019 marketing year are largely finalized. For the 2020 marketing year, crop production has not yet been finalized (this is not expected until January 2021 at the earliest) and outlays for several programs—particularly ARC and PLC—have yet to be calculated and announced (this is expected in September 2021). As a result, final outlays for 2020 are still subject to changes in market conditions.[29]

Historically, the two largest U.S. farm spending categories are federal crop insurance premium subsidies, which averaged about $6 billion per year during 2015-2017,[30] and combined payments under the ARC and PLC revenue support programs, which also averaged about $6 billion per year

[27] The CARES Act created both the Small Business Administration's PPP and the Emergency Economic Injury Disaster Loan (EIDL) grants to provide short-term, economic relief to certain small businesses and nonprofits. Data for EIDL grants to agricultural operations have not been analyzed and are not included in this analysis. See CRS Insight IN11357, *COVID-19-Related Loan Assistance for Agricultural Enterprises*. USDA's ERS farm income forecast for 2020 assumes that $5.8 billion in PPP loans (79.5%) are forgiven and thus counted as farm income in 2020 out of a total of $7.3 billion in agriculture-related PPP loans. The 79.5% share is applied to both the PS ($3.6 billion) and NPS ($3.7 billion) components of PPP loans to obtain estimates of $2.9 billion each of PS and NPS non-exempt outlays.

[28] 2017 is the most recent U.S. notification of domestic farm support; WTO, "U.S. Notification of Domestic Support for Marketing Year 2017," G/AG/N/USA/135, July 24, 2020.

[29] The crop-year forecasts for 2020 outlays are compiled by CRS using calendar-year estimates for 2020 from USDA's ERS, and for 2021 from FAPRI (#05-20, September 2020).

[30] See CRS Report R45193, *Federal Crop Insurance: Program Overview for the 115th Congress*.

during 2015-2017 (**Table 1**).[31] Another large program outlay notified to the WTO is annual sugar price support of about $1.5 billion.[32]

The five ad hoc programs (2018 MFP, 2019 MFP, CFAP-1, CFAP-2, and PPP) are forecast to amount to an additional $53.2 billion in payments beyond the traditional farm programs and crop insurance premium subsidies—including $8.6 billion in crop year 2018, $18.5 billion in 2019, and $26.1 billion in 2020.[33]

The ad hoc outlays include both product-specific and non-product-specific payments. As a result of these ad hoc payments, the pre-exemption AMS for the United States is forecast to jump from its 2015-2017 average of $15.4 billion to $22.5 billion in 2018, $33.9 billion in 2019, and $42.0 billion in 2020. Previously, the largest pre-exemption AMS total for the United States was $24.3 billion in 2000.

Table 1. U.S. Domestic Support by Major AMS Category: Actual and Projected

Actual (2015-2017) and Projected (2018-2020); $ Billions

	Actual			CRS Projections		
WTO classification	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
AMS (prior to exemptions)	**17.2**	**16.0**	**12.9**	**22.5**	**33.9**	**42.0**
Product-Specific (PS)	**9.0**	**8.6**	**9.5**	**19.5**	**15.1**	**31.6**
Sugar price support	1.5	1.5	1.5	1.5	1.5	1.5
FCIC premium subsidies[a]	6.1	5.8	6.1	6.3	6.4	6.4
2018 MFP[b]	—	—	—	8.6	—	—
2019 MFP[c]	—	—	—	—	1.7	—
CFAP-1[d]	—	—	—	—	4.0	7.0
CFAP-2[e]	—	—	—	—	—	13.3
PPP (PS portion)[f]	—	—	—	—	—	2.9
Other PS outlays[g]	1.4	1.3	1.8	3.1	1.5	0.6
Non-Product-Specific (NPS)	**8.2**	**7.4**	**3.4**	**2.9**	**18.7**	**10.4**
ARC/PLC[h]	7.9	7.1	3.1	2.6	5.8	7.1
2019 MFP[i]	—	—	—	—	12.8	—
PPP (NPS portion)[j]	—	—	—	—	—	2.9
Other NPS outlays[k]	0.3	0.3	0.3	0.3	0.3	0.3

Source: Data for 2015-2017 are from U.S. notifications to the WTO. Data for 2018 through 2020 are CRS forecasts based on data from several sources, including USDA, ERS, Farm Income Database, as of September 2,

[31] See CRS In Focus IF11161, *2018 Farm Bill Primer: ARC and PLC Support Programs*.

[32] The U.S. sugar program provides indirect price support—no direct payments are actually made. The $1.5 billion annual outlay notified by USDA to the WTO is an estimate of the sugar price protection provided by the system of tariff-rate quotas that limit access by foreign sugar to the U.S. market.

[33] The projected outlays under CFAP-1 ($11 billion) and CFAP-2 ($13.3 billion) have been adjusted for expected participation rates and payment limits, while the PPP was lowered to reflect USDA's expectation about the share of forgiven loans, as discussed in **Table 1**. As a result, the announced aggregate funding level of $60.4 billion, based on total funding availability, is reduced to $54.7 billion after adjustments.

2020; and FAPRI, *Baseline Update for U.S. Farm Income and the Farm Balance Sheet,* University of Missouri, Report #05-20, September 2020. Federal crop insurance premium subsidies are from USDA's Risk Management Agency's Summary of Business database (as of September 21, 2020). All data are adjusted by CRS to a crop-year basis and reflect USDA's announced payments under ARC and PLC (as of March 12, 2020). 2020 crop-year forecasts of ARC and PLC outlays are compiled by CRS using calendar-year estimates for 2020 from USDA's ERS, and for 2021 from FAPRI (#05-20, September 2020). USDA's Farm Service Agency provides data for 2018 MFP (as of September 18, 2020), and 2019 MFP (as of September 28, 2020). Commodity-specific CFAP-1 outlays are from USDA (https://www.farmers.gov/cfap1/data). CFAP-2 payments are estimates from USDA, "CFAP-2 Cost Benefit Analysis," September 15, 2020.

Notes: AMS=Aggregate Measurement of Support; WTO=World Trade Organization; FCIC=Federal Crop Insurance Corporation; ARC=Acreage Risk Coverage; PLC=Price Loss Coverage; MFP=Market Facilitation Program; CFAP=Coronavirus Food Assistance Program; PPP=Paycheck Protection Program. Official USDA domestic support outlays and their WTO classification for 2018-2020 will not be known until USDA makes an official notification for those years to the WTO. The data presented in this table are an approximation based on crop prices, harvested values, and market conditions as of September 11, 2020. As market conditions change and new payment data become available, these forecasts can be expected to change. Totals may not add up due to rounding.

a. For details, see CRS In Focus IF10980, *Farm Bill Primer: Federal Crop Insurance*.

b. The 2018 MFP made commodity-specific payments on crops harvested in 2018, on hog inventories in mid-2018, and on historical milk production. See CRS Report R45310, *Farm Policy: USDA's 2018 Trade Aid Package*. 2018 MFP payment data are from USDA, FSA, September 18, 2020.

c. The 2019 MFP made commodity-specific payments (i.e., PS outlays) for dairy, hogs, cranberries, ginseng, sweet cherries (fresh) and table grapes of approximately $1.7 billion. Payments to non-specialty crops, estimated at $12.8 billion, were based on non-commodity-specific, weighted county-level payment rates (i.e., NPS outlays). See table note for NPS 2019 MFP below for a description. 2019 MFP payment estimates are from USDA, Office of the Chief Economist, "Trade Damage Estimation for the 2019 Market Facilitation Program and Food Purchase and Distribution Program," August 22, 2019

d. CFAP-1 outlays of $11 billion, out of a potential $16 billion, are from FAPRI (#05-20, September 2020) and reflect lower-than-expected participation rates as evidenced by the announced outlays of $10.3 billion as of October 18, 2020 (five weeks after program signup had closed on September 11, 2020). CFAP-1 payments assigned to 2019 involved payments based on crops harvested in 2019 (or earlier) and still held in on-farm inventories during the January to April period of 2020. CFAP-1 payments assigned to 2020 involved payments to on-farm livestock and products during the January-to-April period of 2020 (i.e., animals, milk, or wool expected to be marketed in 2020). For details on the CFAP-1 payment formulation, see CRS Report R46395, *USDA's Coronavirus Food Assistance Program (CFAP) Direct Payments*.

e. Announced by USDA on September 18, 2020, CFAP-2 payments target 2020 crop and livestock production that is expected to be marketed during the second, third, and fourth quarters of 2020. The CFAP-2 payment data used in the table include adjustments to final outlays based on expected participation and payment limitations incurred by several large farm operations from USDA, "Coronavirus Food Assistance Program 2, Cost-Benefit Analysis," September 15, 2020. As a result of the adjustments, CFAP-2 outlays use $13.3 billion of the potential of $14 billion made available for the program.

f. PPP involves forgivable loans to various small business operators including $7.3 billion to agricultural businesses. Loan recipients are expected to meet certain program criteria in order to qualify for loan forgiveness. USDA's ERS, in its farm income forecasts for 2020, forecast that $5.8 billion (79.5%) of PPP loans would be forgiven and count as direct payments to producers. However, no detail was provided on which loans would be forgiven. CRS subdivided PPP agricultural loans into loans that focus on production of specific commodities (i.e., PS) and loans that are more general in nature (i.e., NPS)—this produced estimates of $3.6 billion in PS and $3.7 billion in NPS loans. Then CRS assumed that 79.5% of loans in each category would be forgiven. This produced forecasts of $2.9 billion in forgiven PPP loans for both PS and NPS categories.

g. Other PS outlays include payments under the Dairy Margin Coverage (DMC) and the Margin Protection Program (MPP), marketing assistance loan benefits, cotton user assistance, cotton ginning cost share, disaster assistance including Wildfire and Hurricanes Indemnity Payments, and other programs.

h. For a description of the ARC and PLC programs, see CRS Report R45730, *Farm Commodity Provisions in the 2018 Farm Bill (P.L. 115-334)*.

i. The MFP payment formula for 2019 was modified for non-specialty crops to be a single county payment rate rather than the commodity-specific rates that were applied in 2018. Eligible non-specialty crops included alfalfa hay, barley, canola, corn, crambe, dried beans, dry peas, extra-long-staple cotton, flaxseed, lentils, long- and medium-grain rice, millet, mustard seed, oats, peanuts, rapeseed, rye, safflower, sesame seed, small and large chickpeas, sorghum, soybeans, sunflower seed, temperate japonica rice, triticale, upland cotton, and wheat. Tree nuts were also combined into a single per-acre payment rate and are treated as NPS outlays. See CRS Report R45865, *Farm Policy: USDA's 2019 Trade Aid Package*.

j. See previous comment for PPP (PS portion) above.

k. Other NPS outlays include irrigation, grazing, and storage subsidies, as well as FCIC premium subsidies for Whole-Farm Revenue Crop Insurance.

Evaluating U.S. Compliance with Spending Limits

Several important factors pertain when evaluating whether U.S. domestic support will be in compliance with U.S. WTO commitments during the crop years of 2018 through 2020. While program outlays for the 2018 and 2019 marketing year are largely finalized, the outlays under several USDA farm programs for the 2020 marketing year have not yet been finalized and are still subject to changes in market conditions. In addition, 2020 crop production has not yet been finalized (this is not expected until January 2021 at the earliest) and outlays for several programs—particularly ARC and PLC—have yet to be calculated and announced (this is expected in September 2021).[34]

Several open questions will largely determine whether the United States will be in compliance with its amber box spending limit.

1. How will USDA classify payments from the various ad hoc programs—including the 2018 and 2019 MFP, and the 2020 CFAP-1, CFAP-2, and any forgiven loans under PPP—in its notifications to the WTO?
2. Will the United States engage in additional assistance to agricultural producers for unsold 2020 crops due to on-going trade disputes or events related to the COVID-19 pandemic?
3. How will market conditions and commodity prices evolve in 2020 and 2021 with respect to final crop values and product-specific de minimis exemptions?
4. What will the final value of total U.S. farm output be in 2020 for purposes of evaluating the 5% non-product-specific de minimis exemption threshold against total non-product-specific AMS outlays?
5. How will market conditions affect decoupled ARC and PLC payments and total non-product-specific outlays for the 2020 marketing year?

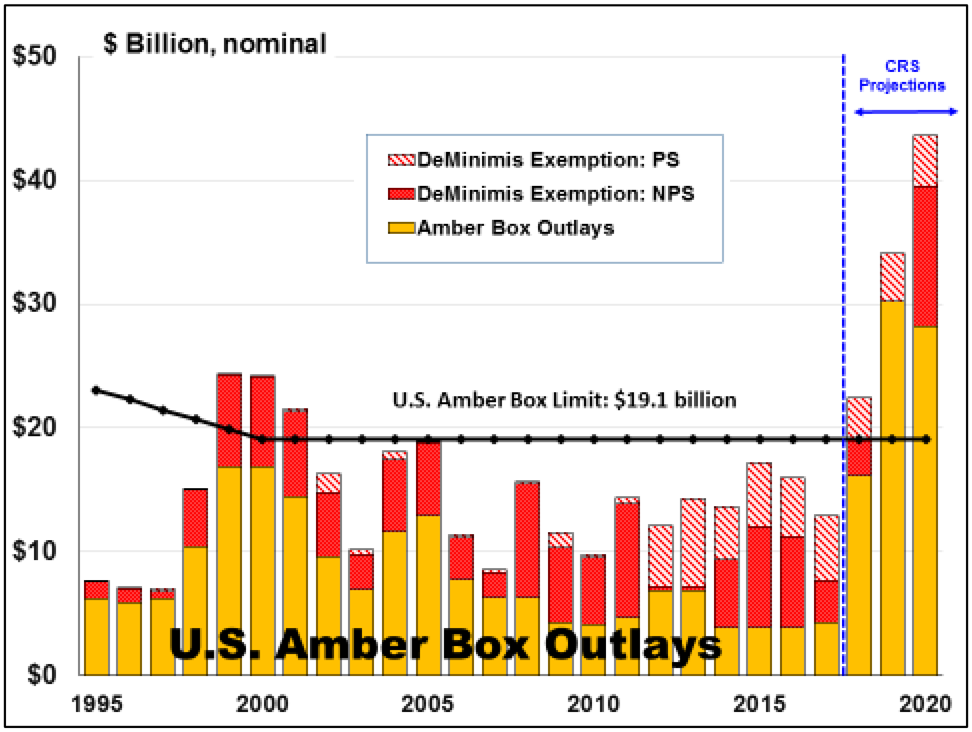
According to CRS analysis, U.S. domestic support outlays appear likely to be in compliance with WTO spending limits during 2018, but could exceed spending limits in both 2019 and 2020 (**Table 2** and **Figure 1**).[35]

[34] 2020 crop-year forecasts of ARC and PLC outlays are compiled by CRS using calendar-year estimates for 2020 from USDA's ERS farm income forecasts, and for 2021 from FAPRI (#05-20, September 2020). Final 2020 outlays for ARC and PLC will depend on the evolution of market conditions through the 2020 marketing year which runs through August of 2021. See the discussion later in this report under "Lag Between Payments and Notification Complicates Reporting".

[35] CRS assumes that USDA will follow historical program classification and notification patterns. If USDA took a different notification strategy, the CRS analysis might be impacted.

Figure 1. U.S. Compliance with WTO Spending Limit, 1995-2020

Actual Notifications for 1995-2017; CRS Projections for 2018-2020



Source: Compiled by CRS from official USDA notifications to the WTO for 1995-2017. USDA has not announced its notification of farm program outlays for 2018 through 2020. Instead, CRS has compiled USDA spending projections for those years (see **Table 1** and **Table 2**) from USDA Farm Service Agency payment data as of March 12, 2020, USDA Risk Management Agency crop insurance premium subsidy data as of September 21, 2020, and FAPRI, *Baseline Update for U.S. Farm Income and the Farm Balance Sheet,* University of Missouri, Report #05-30, September 2020.

Notes: WTO=World Trade Organization; PS=Product Specific; NPS=Non-product Specific. The two de minimis exemptions are PS=product specific and NPS=non-product-specific. Official USDA domestic support outlays and their WTO classification for 2018-2020 will not be known until USDA makes an official notification for those years to the WTO. The data presented in this figure assume that USDA notification will adhere to historical precedent, and are an approximation based on crop prices, harvested values, and market conditions as of September 11, 2020. As market conditions change, and new payment data become available, these forecasts can be expected to change.

Compliance Likely in 2018

In 2018, projected U.S. amber box spending (inclusive of $8.6 billion in product-specific outlays under the 2018 MFP) appears likely to be in compliance with the U.S. spending limit of $19.1 billion.[36] U.S. amber box spending in 2018 could exceed $16 billion after exemptions (**Table 2**). This would be the largest U.S. amber box notification since 2000; however, despite its magnitude, it still would be less than the U.S. annual spending limit of $19.1 billion.

[36] For an earlier discussion of how U.S. compliance may be affected by changes made to U.S. farm programs under the 2018 farm bill (the Agricultural Improvement Act of 2018, P.L. 115-334), as well as payments under the 2018 and 2019 Market Facilitation Programs, see CRS Report R45940, *U.S. Farm Support: Compliance with WTO Commitments*.

Compliance Uncertain in 2019

In 2019, NPS spending is projected to reach a record $18.7 billion—primarily due to the expansion of direct payments under the 2019 MFP to $14.5 billion and changes in MFP payment rate calculations that likely shift the program to a largely NPS classification. USDA made 2019 MFP payments under a formulation that avoids identifying payments with a specific crop. Instead, the underlying product-specific MFP payment rates are weighted at the county level by historical planted acres and yields of all eligible crops to produce a single per-acre MFP payment rate for the entire county. This county-specific rate is then applied to each producer's total planted acres for all eligible commodities within that county, irrespective of the share of planted acres for any particular crop. Thus, payments are coupled to a producer's having planted at least one eligible commodity within the county, but they are independent of which commodity or commodities were planted. Under this specification, the 2019 MFP payments would appear to be coupled to planted acres—a producer has to plant an eligible crop to get a payment—but non-product-specific, thus possibly notifiable as non-product-specific AMS.[37]

The estimated $12.8 billion of NPS spending under the 2019 MFP combines with projected spending of $5.6 billion under the PLC and ARC programs and $0.3 billion of projected spending under other NPS programs to reach $18.7 billion.

To be exempted from the AMS by the NPS de minimis exemption, NPS outlays must not exceed 5% of the value of total agricultural output. In 2019, USDA estimates the value of output for all agricultural production activities—both crop and livestock—at $370.6 billion which has a 5% de minimis threshold of $18.5 billion.[38] If NPS spending exceeds the de minimis threshold by as much as a dollar, then no NPS exemptions are allowed, and the entire aggregate NPS outlay (not just the excess above the threshold) will count against the U.S. spending limit of $19.1 billion.

Based on the currently available data, the projected NPS spending total of $18.7 billion would exceed the NPS de minimis allowance of $18.5 billion by $0.2 billion. If realized, this would be the first time that the United States failed to fully exempt its NPS domestic support outlays under the NPS de minimis exemption. The resulting amber box total of $30.2 billion would be in excess of the U.S. spending limit of $19.1 billion. Thus, under the notification scenario presented here, the United States would be out of compliance with its WTO commitment in 2019.

Given the narrow margin for noncompliance, USDA may be able to avoid noncompliance by classifying some NPS outlays as PS, or by shifting the timing of payments into the preceding year (2018) or the following year (2020).

U.S. Likely Out of Compliance in 2020

In 2020, U.S. total product-specific (PS) spending (prior to de minimis exemptions) is projected to be record large at $31.6 billion (**Table 2**)—due primarily to $20.3 billion in payments under the two CFAP programs (**Table 1**).[39] Other substantial sources of projected PS spending include $2.9

[37] This potential notification is based on CRS analysis of the design of the 2019 MFP program and how it corresponds with previous U.S. notifications. USDA may use a different line of reasoning and notify 2019 MFP payments under a different WTO classification.

[38] The 2019 value for aggregate U.S. agricultural production is from: USDA, ERS, "U.S. and State-Level Farm Income and Wealth Statistics, Annual cash receipts by commodity, U.S. and States, 2008-2020F," September 2, 2020; https://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics/data-files-us-and-state-level-farm-income-and-wealth-statistics/.

[39] As shown in **Table 1** and discussed earlier, this includes $7.0 billion of CFAP-1 outlays on livestock and dairy

billion under the PS portion of PPP grants (i.e., forgiven loans),[40] $6.4 billion in FCIC premium subsidies, $1.5 billion in sugar price support, and $0.6 billion in other smaller PS outlays. PS de minimis exemptions are projected at $4.1 billion, thus leaving $27.4 billion in amber box spending.[41]

Projected aggregate NPS outlays of $10.4 billion in 2020 are expected to be entirely exempt under NPS de minimis. However, the remaining amber box total of $27.4 billion would be in excess of the U.S. amber box spending limit of $19.1 billion by $8.3 billion.

Unlike the 2019 scenario—where USDA could consider several alternate notification strategies based on program classification or payment timing to possibly avoid noncompliance with the $19.1 billion spending limit—the 2020 scenario appears to offer fewer potential strategies for avoiding noncompliance with the spending limit. This is because the potential noncompliance derives entirely from PS spending—all projected NPS spending of $10.4 billion is likely exempt.

In 2020, CFAP-1 and CFAP-2 spending of $7 billion and $11 billion, respectively, is product-specific by design and targeted to production and/or marketing that occurs in 2020. Thus, shifting of the classification or timing appear to be less viable options.

One possible alternative scenario would involve substantially larger PS exemptions under the PS de minimis. However, for greater PS de minimis exemptions to occur, the product-specific output valuations that are used to derive the 5% PS de minimis thresholds would have to increase substantially. For this to occur, higher commodity prices are needed through the end of 2020 to generate greater final crop production valuations. Under such a scenario, more PS outlays could then be exempted than the current projected PS exemption of $4.1 billion. Recent futures market price rises suggest that market conditions are at least partially moving in this direction—the prices for nearby futures contracts for major grains and oilseeds have risen considerably since early September (when the ERS farm income forecasts and FAPRI baseline forecasts were released).[42] Farm prices can be expected to move higher in tandem with futures contract prices. Higher farm prices would raise both estimated crop output values and the PS de minimis thresholds for affected commodities and, thus, raise the possibility of excluding more PS outlays than the current projection of $4.1 billion in PS de minimis exemptions.

The current projection for AMS of $27.4 billion (after deducting $4.1 billion in PS de minimis exemptions) is $8.3 billion above the $19.1 billion spending limit. It appears that a substantial increase in farm prices across all commodities—much greater than the recent 10% to 13% rise—would be needed to exempt an additional $8.3 billion in PS spending.[43]

USDA may notify all PPP-related outlays as non-product-specific. This would reduce non-exempt AMS to $24.6 billion—still $5.5 billion above the $19.1 billion spending limit.

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products in 2020, and $13.3 billion in CFAP-2 payments in 2020.

[40] USDA's ERS, in their farm income forecast for 2020, includes $5.8 billion (79.5%) in forgiven PPP loans out of a total of $7.3 billion in agriculture-related PPP loans. The 79.5% share is applied to both the PS ($3.6 billion) and NPS ($3.7 billion) components of PPP loans to obtain the estimated forgiven PPP loan values of $2.9 billion for each.

[41] This is based on a CRS commodity-by-commodity analysis for over 150 individual products: their estimated domestic support (including crop insurance premium subsidies, MAL benefits, disaster assistance, and CFAP payments); their output values; and their calculated de minimis thresholds.

[42] The December corn futures contract on the Chicago Board of Trade has risen 13% since September 1 (from $3.58/bu. to $4.05/bu.), while the November soybean futures contract has risen about 11% (from $9.55/bu. to $10.60/bu.).

[43] For example, to increase PS de minimis exemptions for any of the commodities with the largest PS support (estimated at a combined $23.1 billion), the following price rises are needed: corn prices must rise by 118%, soybeans prices by 74%, cattle prices by 194%, dairy prices by 88%, cotton prices by 233%, and wheat prices by 189%.

Table 2. U.S. Notifications of Farm Domestic Support: Actual and Projected

Actual (2015-2017) and Projected (2018-2020); $ Billions

	Actual			CRS Projections		
WTO classification	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
AMS (prior to exemptions)	**17.2**	**16.0**	**12.9**	**22.5**	**33.9**	**42.0**
Product-specific AMS	9.0	8.6	9.5	19.5	15.1	31.6
Non-product-specific AMS	8.2	7.4	3.4	2.9	18.7	10.4
De minimis exemptions	**(13.3)**	**(12.2)**	**(8.7)**	**(6.3)**	**(3.8)**	**(14.6)**
Product-specific de minimis	(5.2)	(4.8)	(5.2)	(3.4)	(3.8)	(4.1)
Non-product-specific de minimis	(8.2)	(7.4)	(3.4)	(2.9)	0.0	(10.4)
Value of U.S. farm output	372.7	355.5	369.3	371.4	370.6	358.3
NPS de minimis threshold (5%)	18.6	17.8	18.5	18.6	18.5	17.9
AMS (after exemptions)	**3.8**	**3.8**	**4.2**	**16.1**	**30.2**	**27.4**
Product-specific AMS	3.8	3.8	4.2	16.1	11.3	27.4
Non-product-specific AMS	0.0	0.0	0.0	0.0	18.7	0.0
WTO Spending Limit	**19.1**	**19.1**	**19.1**	**19.1**	**19.1**	**19.1**
Spending Above WTO Limit	0.0	0.0	0.0	0.0	10.9	8.3

Source: Data for 2015-2017 are from U.S. notifications to the WTO. Data for 2018-2020 are CRS forecasts based on data from several sources: USDA, ERS, Farm Income Database, September 2, 2020; FAPRI, *Baseline Update for U.S. Farm Income and the Farm Balance Sheet,* University of Missouri, Report #05-30, September 2020; and the Congressional Budget Office, "Baseline of USDA's Mandatory Farm Program Outlays," as of March 6, 2020. Federal crop insurance premium subsidies are from USDA's Risk Management Agency's Summary of Business database (as of September 21, 2020). All data are adjusted by CRS to a crop-year basis and reflect USDA's most recently announced payments under ARC and PLC (as of March 12, 2020), 2018 MFP (as of September 18, 2020), 2019 MFP (as of September 28, 2020) and CFAP-1 (as of September 27, 2020). CFAP-2 payments are estimates from USDA, "CFAP-2 Cost Benefit Analysis," September 15, 2020.

Notes: AMS=Aggregate Measurement of Support; WTO= World Trade Organization; NPS=Non-product-specific. Official USDA domestic support outlays and their WTO classification for 2018-2020 will not be known until USDA makes an official notification for those years to the WTO. The data presented in this table are an approximation based on crop prices, harvested values, and market conditions as of September 11, 2020. As market conditions change and new payment data become available, these forecasts can be expected to change. Totals may not add up due to rounding.

Several Uncertainties Could Affect Compliance

The projections presented in this report represent a single potential WTO compliance scenario. These results are based on USDA's historical notification patterns for domestic support programs, and existing public data on the current and expected payments. USDA's eventual notification of spending under both traditional and ad hoc programs for crop years 2018 through 2020 may vary from these CRS projections in terms of the following: timing, size, WTO categorization (i.e., AMS, blue box, or green box), and specificity (PS or NPS) of final payments.

Program Payments Still Outstanding for 2019 and 2020

Payments under the various ad hoc programs have not been finalized, nor has USDA announced how the payments might be classified according to WTO AMS categories. In addition, eventual outlays for farm bill programs for the 2019 and 2020 marketing years hinge on several as-yet-unknown market factors including farm prices, output volumes and values, and program outlays. If the final farm price and revenue values are higher than currently projected, then program payments under ARC and PLC could be smaller than those used in this analysis. However, this is diminishing as a possibility since the 2019 marketing year is complete and final payments are being tallied.[44] ARC and PLC outlays are unlikely to change substantially for that year.

With respect to the 2020 marketing year—although unknown at this point—lowering the projected NPS outlays for ARC and PLC would have no impact on the projected amber box total under the scenario presented in this report. This is because estimated NPS outlays are projected to be exempted from counting against the amber box in 2020. Instead, the projected amber box total in excess of the U.S. WTO spending limit is the result of the forecast for PS outlays of $31.6 billion—of which only $4.1 billion is projected to be exempted under PS de minimis.

Lag Between Payments and Notification Complicates Reporting

U.S. farm payments are calculated for each marketing year. A substantial time lag exists between the end of a marketing year, the occurrence and final tally of farm payments for that marketing year, and their eventual notification to the WTO. For example, ARC and PLC payments for the 2019 crop cannot be announced until late September 2020, and payments may not start until after October 1, 2020.

Both ARC and PLC need twelve months of price data to calculate the marketing-year average price for each program crop, which is then used to calculate program payment rates.[45] In addition, producers participating in ARC have to finalize their harvest and crop yield estimates before any ARC payment rates can be calculated. If winter conditions occur early in the fall, some producers may not be able to complete their harvests until the following spring, thus delaying the finalization of their production and yield estimates. USDA has not yet begun to report ARC and PLC payment data for the 2019 crop year—such reporting may start towards the end of 2020. Payments for other farm programs are similarly spread out over an extended period, thus delaying their collection, tally, and notification.

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[44] The 2019 marketing year for corn and soybeans ended on August 31, 2020. USDA's National Agricultural Statistics Service (NASS) collects data on 2019 farm prices and other marketing information through September 2020, and is expected to report final 2019 marketing year values at the end of September 2020. FSA then uses the final 2019 marketing year prices to determine ARC and PLC payment rates for 2019.

[45] See previous footnote for a discussion of the timing of marketing year data needed to calculate ARC and PLC payments. For details on ARC and PLC payment calculations, see CRS Report R46561, *U.S. Farm Policy: Revenue Support Program Outlays, 2014-2020*.

U.S. Notification of Farm Support Is Based on Crop Year Data

Since the origin of the WTO in 1995, the United States has notified its agricultural support outlays on a marketing year basis.[46] Program outlays are associated with the crop that they are supporting, even if the actual payment does not occur until a later year. This is an important point, since many farm programs do not make outlays until after a crop is harvested and the producer has reported acreage and yields to the local USDA county office. Often this occurs in the calendar year following the planting and harvesting of a crop.

Under a typical timeline, USDA would have notified spending for the 2017 marketing year sometime between October 2019 and January 2020. The U.S. notification of domestic support for the 2017 marketing year was delayed until July 24, 2020—more than six months after the normal notification window.[47] Under this extended timeline, U.S. notification of domestic support for marketing years 2018 and 2019 would occur in mid-2021 and mid-2022, respectively.

The inherent delay in the notification process may affect the likelihood that another WTO member will bringing a case, particularly if, by the time of the eventual notification, the ad hoc payment programs are no longer in existence.[48] If the ad hoc payments are not expected to continue under future trade or health conditions, the benefit of bringing a case might not have the deterrence effect that it would if the offending payments were recurring.

Conclusion

Since 1995, the United States has met its WTO commitments; however, this compliance has relied on using the de minimis exemptions to exclude certain AMS spending from counting against the amber box limit. USDA has not notified WTO of its domestic support spending for 2018, 2019, or 2020, nor has it indicated how it will classify outlays under the new ad hoc spending programs initiated by USDA since 2018.

If USDA follows historical precedent in how it has categorized and notified U.S. domestic support outlays in recent years, then CRS analysis suggests that the United States will be in compliance with WTO spending limits during 2018, but could exceed the annual U.S. spending limit of $19.1 billion in both 2019 and 2020.

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[46] Crop year and marketing year are often used synonymously. The marketing year for a crop begins at harvest and runs for the 12-month period during which the crop is marketed or used on the farm. For example, for the 2020 U.S. corn and soybean crops, the 2020 marketing year runs from September 1, 2020, through August 31, 2021.

[47] WTO, "U.S. Notification of Domestic Support for Marketing Year 2017," G/AG/N/USA/135, July 24, 2020.

[48] The remedy under WTO dispute settlement rules is withdrawal of the offending subsidy or suspension of concessions. In general, it would not include damage payments to foreign farmers unless the United States agrees to such terms under a settlement with the challenging country. For example, the United States successfully challenged China's provision of domestic support (in excess of China's WTO AMS spending commitments) for producers of each of wheat, Indica rice, Japonica rice, and corn during 2012, 2013, 2014, and 2015. A WTO panel found that the policies related to corn had expired in 2015 prior to the initiation of the dispute. However, the subsidies provided to wheat and rice were both germane to the dispute and in violation of WTO commitments. China did not contest the panel findings and agreed to remove the offending policies by March 31, 2020, concluding the matter without damage payments. See WTO dispute settlement case DS511, "China—Domestic Support for Agricultural Producers," https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds511_e.htm.

Table 3. U.S. Notification to the WTO of Domestic Program Support, 2017

$ Billions (B) or Millions (M) as indicated

Category / Program	Subtotal	Total
Product-Specific (PS) Support		**$9.5 B**
A. Market Price Support	**$1.5 B**	
1. Sugar market price support ($1.5B)		
B. Non-Exempt Direct payments	**$1.6 B**	
2. Marketing Assistance Loan (MAL) benefits ($0)		
3. Disaster assistance: LFP, LIP, ELAP, TAP ($496M)		
4. Dairy Margin Protection Program (MPP) (-$18M)[a]		
5. ARC/PLC paid on generic base acres ($217M)		
6. Cotton Ginning Cost Share program ($216M)		
7. WHIP and Florida hurricane block grants ($680M)		
C. Other Product-Specific Support	**$6.3 B**	
8. Federal crop insurance premium subsidies for crop and livestock policies ($6.1B)		
9. Upland cotton economic adjustment assistance for domestic users ($42M)		
10. Cotton and peanut handling and storage subsidies ($0)		
Non-Product-Specific (NPS) Support		**$3.4 B**
1. ARC and PLC programs ($3.1B)		
2. Federal irrigation subsidies ($109M)		
3. Federal grazing subsidies ($36M)		
4. Whole-Farm Revenue Insurance premium subsidies ($101M)		
5. Farm storage facility loans ($8)		
6. Renewable Energy for America Program (REAP) ($64M)		
7. Reimbursement Transportation Cost Payment (RTCP) ($2M)		
8. Other		
Total Aggregate Measurement of Support (AMS) prior to deductions		**$12.9 B**
de minimis exemptions from AMS		**$8.7 B**
Product-Specific de minimis	**$5.2 B**	
Non-Product-Specific de minimis	**$3.4 B**	
Amber Box subject to WTO Payment Limit (i.e., non-exempt AMS)		**$4.2 B**
Non-exempt Product-Specific AMS	**$4.2 B**	
Non-exempt Non-Product-Specific AMS	**$0.0 B**	

Source: WTO, U.S. Notification of Domestic Support for Marketing Year 2017, G/AG/N/USA/135, July 24, 2020.

Notes: AMS=Aggregate Measurement of Support. Totals may not add up due to rounding.

a. Producer participation fees exceeded program payments by $18.2 million.

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