

August 19, 2021

Agriculture in the WTO's 12th Ministerial Conference (MC12)

The United States is one of the world's largest agricultural trading countries and has a major stake in negotiations on trade rules and disciplines. Congress continues to seek to influence and monitor ongoing trade negotiations involving agricultural trade, including multilateral negotiations within the World Trade Organization (WTO), to ensure that U.S. agricultural, food industry, and consumer interests are reflected in their outcomes. Discussions on agricultural trade are expected to take place at the WTO 12th Ministerial Conference (MC12) scheduled for late November 2021. Previous multilateral talks involving agricultural trade often have been highly contentious and hampered by a lack of consensus and by divergent agenda and reform priorities.

Importance of U.S. Agricultural Trade

U.S. food and agricultural exports totaled \$149.7 billion and U.S. imports totaled \$146.3 billion in 2020, resulting in a trade surplus of \$3.4 billion, according to data from the U.S. Department of Agriculture (USDA). In recent years, the United States has seen its once sizable agricultural trade surplus—which reached \$40 billion in 2011—shrink to below \$10 billion in 2018 and 2020 and post a deficit in 2019. This trend reflects both rising U.S. imports and slower growth in U.S. exports (**Figure 1**). Some officials and industry representatives contend that policies by some U.S. trading partners may be impeding U.S. food and agricultural exports. The Office of the U.S. Trade Representative (USTR) in its annual *National Trade Estimate Report on Foreign Trade Barriers* highlights a range of such tariff and nontariff concerns.

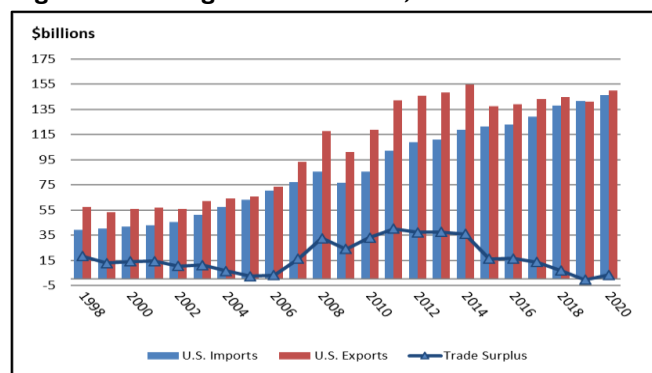
Multilateral Talks on Agricultural Trade

For many years, WTO members have been conducting multilateral negotiations to reform agricultural trade. These talks started under the mandate in the Agreement on Agriculture (AoA) adopted during the Uruguay Round of WTO negotiations in 1995 and later continued as part of the Doha Round initiated in 2001. These negotiations continued in the 2013 and 2015 ministerial conferences. Agreed-on reforms included a decision to eliminate agricultural export subsidies. The United States expects to continue these and other discussions at the MC12. Certain unfulfilled Doha mandates involving agricultural trade continue to be a sticking point for some WTO members that call for more ambitious reforms to domestic farm support programs and subsidies, among other policies. As a WTO member, the United States has committed to abide by WTO rules and disciplines that govern domestic farm policy as defined in the AoA and agreed to by the United States.

In advance of the MC12, the United States has called for increased transparency in domestic support notifications (JOB/AG/181). The United States, with other WTO members (including Canada, the European Union (EU), and

Japan), submitted a July 2021 proposal for a Ministerial decision calling for enhanced transparency obligations on export restrictions and prohibitions, along with other reporting commitments on market access and domestic support (JOB/GC/204/Rev.6; JOB/CTG/14/Rev.6). The United States sees enhanced transparency and a streamlined notification process on export competition (described below) as a feasible outcome for the MC12.

Figure 1. U.S. Agricultural Trade, 1998-2020



Source: CRS from USDA's Global Agricultural Trade System data (FATUS product group). Data are calendar year.

The July 2021 proposal for decision by the United States and other WTO members, if implemented, would establish a new, single "streamlined export competition notification" covering export subsidies, export financing, international food aid, and exporting State Trading Enterprises. The proposal also outlines ways that WTO members might better specify and explain calculations in their notifications related to domestic support. It further encourages members to report fill rates of their tariff-rate quotas (the amount of imports that qualify for lower tariffs) and to report bound and applied tariff rates applied to products both under quota and outside quota. The proposal also seeks reporting on the volume of goods affected by special safeguards (i.e., temporary import restrictions), among other commitments.

The WTO defines *transparency* as the degree to which "trade policies and practices, and the process by which they are established, are open and predictable." WTO member governments have agreed to general *notification* obligations to inform other members "to the maximum extent possible" of any newly adopted or modified trade measures. Such notification constitutes a transparency obligation requiring member governments to report trade measures that might affect other trading partners. Many WTO agreements require that trade measures taken by WTO members be notified to other member nations to allow members to monitor and raise concerns with any new trade measures. The WTO estimates that about one-third of its members have failed to provide timely notification of their

agriculture-related trade actions, while fewer than half of WTO members have notified the WTO of their subsidies or countervailing measures, which often involve agricultural commodities. Calls for greater transparency in the WTO notification process cover information related to domestic support and how it is calculated, bound and applied tariff rates, tariff-rate quota fill rates, and export restrictions (such as those related to COVID-19), among other policies.

Separately, the United States and other WTO countries are seeking to address nontariff barriers to trade related to *sanitary and phytosanitary* (SPS) and other technical measures that are generally regarded as necessary to ensure product safety and quality. The proposed SPS Declaration for the MC12 (G/SPS/GEN/1758/Rev.7) seeks to address changes in global agriculture since the adoption of the WTO Sanitary and Phytosanitary Measures Agreement in 1995. It seeks to establish a “work program” to explore ways to promote the adoption and use of “safe, innovative plant-protection products and veterinary medicines, and by encouraging the use of international standards, guidelines, and recommendations” by recognized standard-setting organizations, including support for “basing SPS measures on scientific evidence and principles.” For more background, see CRS In Focus IF11903, *Addressing Nontariff Barriers to Agricultural Trade at the WTO*.

The prospects for achieving these outcomes at the MC12 remain uncertain. Agricultural negotiations tend to be highly contentious. Consensus among WTO members on what the upcoming talks should address related to agricultural trade, and submissions from more active WTO members, often diverge widely. Draft negotiating text released by the chair of the agriculture talks outlines seven areas for discussion in the MC12: domestic support, market access, export restrictions, export competition, cotton, public stockholding for food security purposes, and a special safeguard mechanism. The MC12 also is to address transparency as a “cross-cutting” issue. Furthermore, as emphasized by the chair of the agricultural negotiations, the AoA calls for establishing a “fair and market-oriented agricultural trading system” (Article 20), which involves “progressively reducing support and protection; and taking account of all members’ interests, including special and differential treatment for developing countries, non-trade concerns such as food security, and protection of the environment.” This broad agenda makes it difficult to anticipate the talks’ outcome.

A May 2021 joint statement by the Cairns Group and the African Group of WTO members calls for “ambitious, concrete and equitable” agriculture reforms. Members of the Cairns Group represent a coalition of 19 agricultural exporting countries—including Australia, Brazil, and Canada—plus one observer. The Africa Group includes members from 54 African Union Member States. Previous efforts by these groups and similar efforts initiated in the Doha Round have often contributed to deadlocked agricultural negotiations. Issues raised by these groups and other WTO members have included designating additional products as “sensitive” along with establishing new tariff-rate quotas; designating developing country products as “special” and thus exempt from tariff reduction obligations;

and allowing developing countries to raise tariffs temporarily to address import surges or price declines.

The Cairns Group is seeking commitments to “cap and reduce” current trade and domestic support entitlements by at least half by 2030 (JOB/AG/177/Rev.2), which could present certain challenges at the MC12 talks. Under the AoA, the United States is currently committed to spend no more than \$19.1 billion annually on those domestic farm support programs most likely to distort trade under the WTO—referred to as *amber box* programs and measured by the Aggregate Measure of Support (AMS). Since 2018, however, USDA has initiated several large ad hoc spending programs—valued at up to \$60.4 billion cumulatively in 2018, 2019, and 2020—in response to international trade retaliation as well as economic disruption caused by the COVID-19 pandemic. These ad hoc payments are in addition to existing U.S. farm support programs. These payments have raised concerns among some U.S. trading partners and policymakers that U.S. domestic farm subsidy outlays on market-distorting farm support programs might exceed its annual WTO spending limit of \$19.1 billion for one or more of those years, which could violate U.S. commitments under the AoA. The United States has not yet reported this spending to the WTO. For more background, see CRS Report R45305, *Agriculture in the WTO: Rules and Limits on U.S. Domestic Support*.

Considerations for Congress

Congress and its farming constituencies have typically closely monitored WTO negotiations related to agricultural trade matters, particularly involving tariff and nontariff barriers that may limit U.S. agricultural exports. Several U.S. agricultural trade associations and farm support organizations have outlined a range of recommendations in advance of the MC12 and other related efforts to institute WTO reforms more broadly. Specifically, these farm groups contend that “WTO reforms should lead toward further market-based and sustainable trade liberalization, reduced distortions, enhanced transparency, and a more effective and efficient dispute settlement system.” These groups further emphasize the need for “predictable and transparent trade rules” to ensure business certainty and to enforce multilateral rules, as well as to ensure that new areas of negotiation (such as climate change mitigation and sustainability) are pursued in a science-based and data-driven manner. They also express concerns that some WTO members want to add new special safeguard mechanisms or institute changes allowing for public stockholding that involve purchases from farmers at fixed government prices.

Many in Congress and in the U.S. food and agricultural sectors have also expressed concerns that the Biden Administration has not yet named a candidate for the Chief Agricultural Negotiator. The Chief Agricultural Negotiator position was created as a USTR post in the Trade and Development Act of 2000 (P.L. 106-200; 19 U.S.C. §2171) to conduct trade negotiations and enforce trade agreements relating to U.S. agricultural interests and products. If this position remains vacant, it could have implications for the upcoming MC12 agricultural negotiations.

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