CHOICES
The magazine of food, farm, and resource issues
A publication of the Agricultural & Applied Economics Association
AAEA Agricultural & Applied Economics Association

The WTO and U.S. Domestic Support in the Food, Conservation, and Energy Act of 2008

Eric Wailes and C. Parr Rosson III

JEL Classifications: F13, Q18

Changes in the Food, Conservation, and Energy Act of 2008 have the potential to push domestic support for United States farmers above current and proposed commitments in the WTO. This article explores one of the inevitable questions that arise with the enactment of the Food, Conservation and Energy Act of 2008 regarding how the domestic agricultural support provisions in this legislation will affect United States commitments under the Uruguay Round Agreement on Agriculture (URAA). And further, how will the domestic supports fit with the proposals and negotiations in the Doha Development Agenda?

Much of the discussion going into the development of the 2008 Act identified four main pressures that would bear on its development, namely: federal budget issues, changing demographics, evolving structure of interest groups, and implications for WTO agreements and dispute panel findings (Mercier and Smith, 2006).

In the end, with the enactment of the Food, Conservation and Energy Act (FCEA) of 2008 on May 2, 2008 it appears that at least the first three pressures did generate reforms in the 2008 Act compared to the previous Farm Security and Rural Investment Act of 2002. This is reflected in new titles such as Horticulture and Organic Agriculture, Livestock, Commodity Futures, and Crop Insurance and Disaster Assistance. The act also provides reforms in payment eligibility and limits. However, with respect to domestic farm support, nearly all of the basic farm safety net that accounts for the notification by the United States on domestic support commitments with the WTO remains intact, including price supports for dairy and sugar, loan deficiency payments, direct payments and counter-cyclical payments. Changes in the dairy support program include shifting support to product prices rather than the milk price. This will affect how the program is notified under the U.S. Aggregate Measure of Support (AMS), although it will not greatly affect program operation. The 2008 Act provides few reforms that address in any substantive way U.S. obligations under the WTO. In fact it may be argued that the 2008 farm bill potentially creates more payment exposure to meeting WTO obligations than its predecessor.

U.S. Commitments on Domestic Support under the Agreement on Agriculture

The United States and some thirty other countries agreed in the Uruguay Round Agreement on Agriculture to a scheduled reduction of trade-distorting domestic support. As part of this agreement, the members agreed to notify the WTO annually regarding the payments made under several categories of domestic support, including Green Box (minimally trade-distorting), Blue Box (trade-distorting but subject to supply control) and Amber Box (trade distorting). Amber Box includes the Aggregate Measure of Support (AMS) which is subject to the scheduled reduction, and the *de minimus* support that is not. Both the AMS and *de minimus* payments are further divided into non-product specific and product specific. (Under the de minimus provision if product specific or the non-product specific payment totals are not larger than 5% of their respective total market value of production, then the support does not have to be included in the total AMS.)

At the end of the scheduled reduction period of the Uruguay Round Agreement on Agriculture in 2000, the annual spending constraint on U.S. AMS was U.S. $19.1 billion. It will remain at this level until a new agreement is negotiated and ratified by member nations. Domestic support payments subject to constraints are monitored and implemented by the Agriculture Committee of the WTO. "Notifications" of support payments are submitted by members. Notifications however have been slow. Only within the past year has the U.S. submitted notification of domestic support commitments for the marketing years 2002, 2003, 2004 and 2005, as shown in Table 1. (WTO document G/AG/N/USA/60 of 9 October 2007)

Programs that count toward the U.S. AMS commitment based on current U.S. notification include: loan deficiency payments, marketing loan gains, other product specific support including storage payments and commodity loan interest subsidies, market price supports for dairy and sugar, and non-product specific supports including irrigation programs, grazing programs and federal crop insurance (indemnities less premiums paid notified as non-product-specific amber box *de minimus*). (See CRS Report RS20840, Agriculture in the WTO: Limits on Domestic Support, by Randy Schnepf, listed in For More Information section)

Table 1. U.S. Notification of Domestic Agricultural Support Payments to the WTO

ITEM	2002	2003	2004	2005
	U.S. $ Billion			
Amber Box	$9.6	$6.9	$11.6	$12.9
Amber Box Limit (WTO Ceiling)	$19.1	$19.1	$19.1	$19.1
Green Box – No Limit	$58.3	$64.1	$67.4	$71.8

Source: USDA, News Release No. 0278.07, October 4, 2007.

Key Changes in the 2008 Act Likely to Affect AMS Notification

Minor changes are authorized in the 2008 Act for the marketing loan program, direct payment program and the price-based counter-cyclical program The direct payment program (notified by the U.S. as Green Box) and the counter-cyclical program (notified as non-product-specific Amber Box *de minimus*) are mentioned here because in the recent Brazilian cotton dispute panel finding and appeal. The panel found that U.S. payments under the Production Flexibility Contract and Direct Payment programs do not qualify for WTO's Green Box category of domestic spending because of their prohibition on planting fruits, vegetables, and wild rice on covered program acreage. While the counter-cyclical program was not considered in the dispute, it also is subject to prohibition on planting specialty crops. Even though in the Doha July 2004 Framework, the U.S. succeeded in obtaining agreement on counter-cyclical payments as Blue Box, without a Doha Round agreement, this Blue Box notification would be also likely subject to dispute. See Mercier (2004) and Schnepf (2007) for information on the Brazilian dispute. More significant is the introduction of the Average Revenue Crop Election (ACRE) program. This program is offered to program commodity producers as an alternative to the counter-cyclical payment (CCP) program beginning in 2009.

The CCP program, enacted as part of the 2002 farm bill, is triggered by low commodity prices relative to fixed target prices; ACRE provides a risk management tool to address either or both low yields and low prices. Two triggers must be met before an ACRE payment occurs. First, state-level ACRE guarantee revenue per acre must exceed the actual state revenue per acre and second, the farm ACRE benchmark revenue per acre must exceed the actual farm revenue per acre. The state ACRE guarantee is the 5-year Olympic average state yield times the average of the past two years' national price times 90% for the specified crop. The actual state revenue will be the state yield per planted acre times the national average market price or 70% of the national loan rate. The farm ACRE benchmark is the farm's 5-year Olympic yield per planted acre times the average of the past two years' national price plus the per acre insurance premium on the crop. The state ACRE guarantee revenue cannot increase or decrease more than 10% during 2010-2012 from the previous year's state ACRE guarantee revenue level. Because the payments are triggered or coupled to current production, market prices and yields, payments under this program will likely be Amber Box and count against the AMS constraint. See the accompanying article by Zulauf, Dicks and Vitale in this issue for more details on the ACRE program.

The commodity title also increases the loan rate for sugar a quarter cent per year for 3 years and changes the overall allotment quota to be a minimum of 85% of domestic consumption. The Act extends the Milk Income Loss Contract program until 2012, increases the payment rate and eligible poundage and provides price supports for cheddar cheese, butter, and nonfat dry milk.

Notification of 2008 Payments Under Existing Commitments

Projections of market prices for most program crops supported by the 2008 Act will imply that the notification values on loan deficiency payments and marketing loan gains will help keep AMS product specific payment levels well below $19.1 billion. (See USDA Long-Term Projections to 2017 at http://www.usda.gov/oce/commodity/ag_baseline.htm and FAPRI 2008 U.S. and World Agricultural Outlook at http://www.fapri.iastate.edu/outlook2008/) The primary concern will focus on the payments that are likely to flow from expected high participation on the ACRE program by corn, wheat and soybean producers. This program will not go into effect until the 2009 marketing year but exceptionally high market prices in 2007 and 2008 provide the potential for large payments in the 2009 and possibly 2010 marketing years should market prices decline.

Potential for Changes in WTO AMS Commitments

A successful conclusion to the Doha Round negotiations remains elusive as reflected by the July 2008 mini-ministerial collapse. The U.S. offered to reduce overall trade distorting support (Blue Box + Amber Box + non-product-specific *de minimus* + product-specific *de minimus* limits) from $48 billion to $15 billion contingent on matching market access offers by other WTO member nations. It also agreed under the same contingency to reduce the AMS trade-distorting commitment of $19.1 billion down to $7.64 billion. Again, with sustained high crop prices, market price supports for sugar and milk will account for most of the payments against this proposed new limit. However, as suggested above, the potential payment exposure from the ACRE program could easily strain the ability of the U.S. to remain below the proposed $7.64 billion limit. Not until and unless a new round is completed will this become a real concern. Even then, how the U.S. Congress may address the potential of exceeding the AMS remains unclear.

For More Information

Josling, T., Blandford, D., Arha, K., &Sumner, D.A. (2007). U.S. Commodity Programs and WTO Commitments. In Arha, K., Josling, T. Sumner, D.A. & Thompson, B.H. eds. *U.S. Agricultural Policy and the 2007 Farm Bill*. Stanford University Woods Institute for the Environment. Stanford, CA. Available online: http://woods.stanford.edu/ideas/farmbill/results.html

Mercier, S. (2004). "The WTO and US Agricultural Policy: Intersections and Consequences." *Choices*, pp 31-36. American Agricultural Economics Association. Available online: http://www.choicesmagazine.org/2004-4/policy/2004-4-08.htm

Mercier, S. and Smith, V. (2006). "Domestic Farm Policy for 2007: Forces for Change." *Choices,* pp 209-214. American Agricultural Economics Association. Available online: http://www.choicesmagazine.org/2006-4/resource/2006-4-01.htm

Schnepf, R. (2007). *Brazil's WTO Case Against U.S. Agricultural Support: A Brief Overview.* CRS Report for Congress RS22728. Available online: *www.nationalaglawcenter.org/assets/crs/RS22187.pdf*

Eric Wailes (ewailes@uark.edu) is the L.C. Carter Chair Professor, Department of Agricultural Economics and Agribusiness, Division of Agriculture, University of Arkansas, Fayetteville. C. Parr Rosson III (CPR@ag.tamu.edu) is a professor, extension economist, and director of the Center for North American Studies, Department of Agricultural Economics, Texas A&M University, College Station, Texas.

The authors would like to thank two anonymous referees for helpful comments.