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Major Agricultural Trade Issues in the 115th Congress

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Summary

Trade, particularly exports, is critical to the vitality of American agriculture. On average, foreign markets absorb about one-fifth of U.S. agricultural production, thus contributing significantly to the health of the farm economy. The positive economic effects of trade in farm products are felt well beyond the farm gate. Farm product exports make up about 10% of total U.S. exports and contribute positively to the U.S. balance of trade. The economic benefits of agricultural exports also extend across rural communities, while overseas farm sales help to buoy a wide array of industries linked to agriculture, including transportation, processing, and farm input suppliers. Moreover, most of the future growth in food demand is expected to occur in developing countries.

Congress has traditionally displayed a keen interest in agricultural trade issues given their importance to farmers and ranchers and to the overall economy. The plethora of agriculture-related policy questions and trade issues in play as the 115th Congress convenes suggests that trade policy in general, as well as specific farm trade issues, may continue to draw congressional oversight and input. One ongoing concern has centered on the trade-distorting domestic policies abroad, including in China, which ranked as the second largest market for U.S. farm exports in FY2016. In late 2016 the Office of the U.S. Trade Representative (USTR) launched two trade enforcement actions against China at the World Trade Organization (WTO) over its administration of tariff rate quotas for imports of wheat, rice, and corn and over its domestic support measures for these crops.

On the multilateral front, President Trump has ordered the withdrawal of the United States from the Trans-Pacific Partnership (TPP) regional free trade agreement (FTA), which the United States and 11 other Pacific-facing nations signed but which Congress has not ratified. As negotiated, TPP would have significantly improved access for U.S. farm exports. USTR continues to negotiate with the European Union (EU) over a regional FTA—the Transatlantic Trade and Investment Partnership (T-TIP)—involving a number of thorny agricultural issues that have proved to be impediments to trade, including differences over geographic indications (GI) and discontinuity in regulating the application of biotechnology to agricultural production, as well as access for these products to commercial markets. The United Kingdom vote to exit the EU has added to the already uncertain prospects for T-TIP.

At the global level, further liberalization of agricultural trade is an objective of the Doha Round of multilateral trade negotiations under the WTO, but those talks have been at an impasse for several years. Of concern to the developing world, the Generalized System of Preferences (GSP)—which provides duty-free tariff treatment for certain products from developing countries and benefits from $2.6 billion in U.S. agricultural imports in 2015—will expire at the end of 2017 unless Congress extends it.

Beyond trade agreements, numerous other trade issues of importance to U.S. agriculture may be of interest to Congress. For one, suspension agreements that limit Mexico's sugar exports to the United States have come under increasing criticism from U.S. stakeholders and may have implications for the U.S. sugar program. In Cuba, U.S. farm and food interests see potential to meaningfully expand exports, but a prohibition on private U.S. financing is viewed as a major obstacle to this end. U.S. dairy interests object to a Canadian dairy ingredient pricing strategy that it believes is aimed at displacing U.S. ingredient exports. U.S. exports of beef, pork, and chicken continue to face bans and trade restrictions over disease outbreaks that are inconsistent with international trade protocols. Examples include China's ongoing bans on imports of U.S. beef and poultry and restrictions imposed by several foreign markets on U.S. ractopamine-fed pork. As the 115th Congress convenes, the United States has settled two long-running WTO challenges to its policies: one to its cotton program and another to its country-of-origin labeling (COOL) law.

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Overview of U.S. Agricultural Exports[1]

U.S. agricultural exports have long been a bright spot in the U.S. balance of trade, with exports exceeding imports in every year since 1960, although in recent years the value of farm exports have experienced a downturn from the record level recorded in FY2014. The U.S. Department of Agriculture (USDA) forecasts U.S. agricultural exports in FY2017 will reach $134 billion. If realized, this total would represent a moderate rebound from FY2016, when exports sank to $129.7 billion, which was $10 billion below the FY2015 total and more than $20 billion below the peak of $152.3 billion in FY2014. The decline in the value of farm exports in recent years has reflected mainly lower market prices for bulk commodities. U.S. agricultural imports are forecast to total $113.5 billion in FY2017, essentially unchanged from $113.1 billion in FY2016, resulting in an agricultural trade surplus of $19.5 billion. This would compare favorably with a surplus of $13.9 billion in FY2016 but would still be well below the high of $43.1 billion in FY2014.

Agricultural exports are important both to farmers and to the U.S. economy. From 2013 to 2015—the most recent calendar years for which figures are available—the value of U.S. agricultural exports accounted for 10% and 11% of total U.S. exports and 5% of total U.S. imports, according to USDA.[2] As for the contribution of U.S. agricultural exports to the overall economy, USDA's Economic Research Service estimates that in 2014 each dollar of agricultural exports stimulated an additional $1.27 in business activity. Moreover, that same year, agricultural exports generated an estimated 1,132,000 full-time civilian jobs, including 808,000 jobs outside the farm sector.[3]

With the productivity of U.S. agriculture growing faster than domestic demand, farmers and agriculturally-oriented firms rely heavily on export markets to sustain prices and revenue. Within the agricultural sector itself, the importance of exports looms especially large, accounting for around 20% of total farm production by value.[4] Export markets are a major outlet for many farm commodities, in some cases absorbing over one-half of U.S. output, including for wheat, cotton, and some specialty crops.

Within the overall mix of agricultural exports, soybeans, corn, other feed crops, and wheat continue to rank at or near the top of the list of farm exports by value. But overall it is the high value product (HVPs) category—which includes such products as live animals, meat, dairy products, fruits and vegetables, nuts, fats, hides, feeds, sugar products, grain products, and processed fruits and vegetables—that comprises the largest share of exports in value terms. In FY2015, the HVP share of the value of U.S. agricultural exports represented 67% of the total.[5]

All states export agricultural commodities, but a minority of states account for a majority of farm export sales. In calendar year 2015, the 10 leading agricultural exporting states based on value—

[1] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

[2] USDA Economic Research Service (ERS), "Effects of Trade on the U.S. Economy—2014," https://www.ers.usda.gov/data-products/agricultural-trade-multipliers/2014-data-overview/.

[3] Ibid.

[4] USDA, ERS, "U.S. Agricultural Trade, Export Share of Production," https://www.ers.usda.gov/topics/international-markets-trade/us-agricultural-trade/export-share-of-production/, and telephone conversation with Alberto Jerardo, USDA, ERS on August 6, 2014.

[5] USDA, ERS, U.S. Agricultural Trade Data Update, at https://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-fatus/us-agricultural-trade-data-update/.

California, Iowa, Illinois, Nebraska, Minnesota, Texas, Indiana, Kansas, North Dakota, and Washington—accounted for 57% of the total value of U.S. agricultural exports that year.[6]

Status: Congress reauthorized major agricultural export promotion programs in February 2014 through FY2018 with the passage of the 2014 farm bill (P.L. 113-79). For more information see CRS Report R43696, *Agricultural Exports and 2014 Farm Bill Programs: Background and Current Issues*.

U.S. Challenges China's Policies on Wheat, Rice, and Corn[7]

In September 2016, the Office of the U.S. Trade Representative (USTR) launched two dispute settlement cases against China at the World Trade Organization (WTO) over Chinese policies that USTR alleges are inconsistent with its WTO obligations and have distorted international trade in wheat, rice, and corn. In September 2016, USTR challenged China's domestic support measures for these crops, asserting that the level of government support appears to have been well in excess of China's WTO commitments.[8] The U.S. subsequently filed a separate enforcement action in December 2016 over the same three commodities, alleging that China's management of the tariff-rate quotas (TRQs) for these crops has improperly restricted access to the Chinese market by up to $3.5 billion.[9] Under a TRQ, a lower tariff is levied on import quantities within the quota amount, while a higher rate is imposed on quantities in excess of the quota.

In the initial action involving China's domestic support measures, USTR contends that the level of support that China has provided for rice, wheat, and corn has exceeded—by nearly $100 million from 2012 through 2015—the level to which the country committed when it joined the WTO of 8.5% of the value of its annual domestic agricultural production. USTR also asserts that China's support levels for domestic production have been above world market prices since 2012, thereby creating an incentive for Chinese farmers to increase production of these crops, which in turn has displaced imports from the United States and elsewhere.

Concerning the TRQs, USTR asserted that China's administration of them is not transparent, predictable, or fair, citing impermissible restrictions on importation, unclear procedures, and lack of meaningful information on how the TRQs are managed. As a consequence, USTR points out that the TRQs for these crops during the most recent five years (2011-2015) have consistently gone unfilled even though global prices have favored importation. The TRQs, which USTR values at about $7 billion based on Chinese import prices in 2015, are global in nature, making them available to numerous exporters.

Status: Following the U.S. trade enforcement action over China's domestic price support levels at the WTO in September, bilateral consultations were undertaken, but no resolution was agreed upon. Thus, in December, USTR requested that WTO establish a dispute settlement panel to examine China's domestic support levels for these crops, a request that was fulfilled in January 2017. Following its WTO challenge of China's administration of TRQs, U.S. officials requested bilateral consultations to seek a mutually agreeable solution before potentially moving to the next

[6] USDA, ERS, State Export Data, at https://www.ers.usda.gov/data-products/state-export-data/.

[7] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

[8] See USTR, "United States Challenges Excessive Chinese Support for Rice, Wheat, and Corn," press release, September 13, 2016, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/september/united-states-challenges.

[9] See USTR, "United States Challenges Chinese Grain Tariff Rate Quotas for Rice, Wheat, and Corn," press release, December 15, 2016, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/december/united-states-challenges-chinese.

level of dispute resolution. If the talks prove to be unproductive, the United States could request that a WTO dispute settlement panel be appointed to examine China's TRQ administration.

If the WTO would determine that China's price supports or its administration of its TRQs for wheat, rice, and corn (or both) are WTO inconsistent, then China would be obligated to take corrective measures. If China did not, the United States could seek authorization from the WTO to impose trade sanctions against China.[10]

Trans-Pacific Partnership (TPP)[11]

The Trans-Pacific Partnership (TPP) is a proposed regional free trade agreement (FTA) that was negotiated by the Obama Administration and signed by the United States, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The agreement had not yet entered into force when President Trump signed an executive order withdrawing the United States from TPP on January 23, 2017. The fate of TPP is uncertain as other countries may seek to ratify a very similar deal without the United States.

Concerning agricultural products, the agreement sought to liberalize trade through lower tariffs, expanded TRQs, and agreements over rules and procedures for reducing non-tariff barriers. Export markets are the destination for about 20%[12] of U.S. agricultural production, providing material support for U.S. farm prices and income. As such, the importance of improving access to overseas markets is readily apparent and is expected to factor more importantly in the years ahead, because the growth of food demand abroad is expected to far outpace increases in domestic demand.

TPP countries represent a major component of U.S. farm and food trade, providing markets for 42% of U.S. farm exports between 2011 and 2015, while also supplying 47% of U.S. agricultural imports. Among the TPP countries, Japan and Vietnam—with a combined population of around 220 million people—were expected to offer the greatest potential for expanding U.S. farm exports under TPP, because the United States does not already have free trade agreements (FTAs) with either country. Also, Japan and Vietnam impose significantly higher average most-favored-nation (MFN) tariffs[13] on imports of agricultural products—at 12.9% and 16.3%, respectively—in 2015 compared with the U.S. average of 5.2%.[14] Thus, tariff reductions under TPP would be expected to improve the competitiveness U.S. farm and food exports compared with domestic suppliers and non-TPP export competitors.

As negotiated, TPP would have materially increased the overseas markets to which U.S. farm and food products would have preferential access. In its report of May 2016, the U.S. International Trade Commission (ITC) concluded that TPP would provide significant benefits for U.S. agriculture. ITC projected that by 2032 U.S. agricultural exports would be higher by $7.2 billion, or 2.6%, under TPP than without the agreement, reflecting lower tariffs and expanded tariff-rate

[10] For more on WTO trade dispute settlement, see CRS Report RS20088, *Dispute Settlement in the World Trade Organization (WTO): An Overview*, by Daniel T. Shedd, Brandon J. Murrill, and Jane M. Smith.

[11] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

[12] USDA, ERS, Export Share of Production at https://www.ers.usda.gov/topics/international-markets-trade/us-agricultural-trade/export-share-of-production/.

[13] MFN tariffs are normal non-discriminatory tariffs charged on imports (excluding preferential tariffs under FTAs and other schemes or tariffs charged inside quotas) applied by countries/customs territories.

[14] World Trade Organization, *World Tariff Profiles*, https://www.wto.org/english/tratop_e/tariffs_e/tariffs_e.htm.

quotas, while U.S. farm imports would total $2.7 billion higher, or 1.5%.[15] Most of the increase in U.S. exports would have been concentrated in Japan (up $3.6 billion) and Vietnam (up $3.3 billion). Beyond market access changes, TPP included new rules and procedures for addressing non-tariff barriers that impede trade, including sanitary and phytosanitary (SPS) measures that address food safety, plant pests and animal diseases. For more information, see CRS Report R44337, *TPP: American Agriculture and the Trans-Pacific Partnership (TPP) Agreement*; and CRS In Focus IF10412, *TPP: Taking the Measure of the Agreement for U.S. Agriculture*.

Status: A broad cross-section of agricultural groups and food and agribusiness interests have expressed support for implementing TPP, citing increased market access for U.S. farm and food products under the agreement and potential for expanded exports. But support for TPP within agriculture, while broad-based, was not universal. A number of groups representing agriculture and food industry interests opposed the agreement, reflecting concerns about competition from imports, the lack of a strong enforcement mechanism against currency manipulation, and the potential offshoring of jobs in the food processing sector. Congress had not considered implementing legislation that would have been needed to bring TPP into force when President Trump ordered the withdrawal of U.S. participation from the agreement. For more, see CRS In Focus IF10000, *TPP: Overview and Current Status*.

U.S.-EU Transatlantic Trade and Investment Partnership (T-TIP)[16]

Agricultural issues have been an active topic of debate in the ongoing trade negotiations between the United States and the European Union (EU) to establish a free trade area as part of T-TIP. Some of the principal objectives of U.S. agricultural interests include expanding market access for U.S. agricultural exports, addressing regulatory concerns regarding certain SPS and related non-tariff trade measures, and addressing concerns about EU products characterized by "geographical indications" (GIs). Complicating the U.S.-EU negotiations regarding agricultural issues are major underlying regulatory and administrative differences between the United States and the EU in how each addresses issues of food safety and public health, as well as intellectual property rights for some types of agricultural products. In addition, the T-TIP negotiations on agricultural products need to be viewed in the context of a series of long-standing, high-profile transatlantic trade disputes between the United States and the EU across a range of trade issues.

In 2015, U.S. exports of agricultural products to the EU totaled $12 billion, while EU exports of agricultural products to the United States totaled $20 billion, resulting in a substantial trade deficit of nearly $8 billion for the United States. The WTO reports that the simple average MFN tariff applied to agricultural product imports in the United States was 5.1% in 2014, compared to an average of 12.2% for the EU.[17] Including all products imported under an applied tariff and TRQ, USDA reports that the calculated average rate across all U.S. agricultural imports is roughly 12% overall, well below the EU's average of 30%.[18] Restrictive TRQs on agricultural products are also a concern for U.S. exporters. A USDA study reports that removing tariffs and TRQs could increase U.S. agricultural exports to the EU by an estimated $5.5 billion (compared to a 2011 base year). EU exports to the United States are estimated to rise by $0.8 billion. These totals cover all current 28 EU member states.

[15] USITC, Trans-Pacific Partnership Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors, publication number: 4067, May 2016, at https://www.usitc.gov/publications/332/pub4607.pdf.

[16] Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS.

[17] WTO, *World Tariff Profiles, 2015*, https://www.wto.org/english/res_e/booksp_e/tariff_profiles15_e.pdf.

[18] USDA, "Why Trade Promotion Authority Is Essential for U.S. Agriculture and T-TIP," February 2015.

High tariff barriers are further exacerbated by additional non-tariff barriers that may limit U.S. agricultural exports. Addressing non-tariff barriers is another major goal of the U.S. agricultural sectors in the negotiation covering certain SPS concerns. These include delays in reviews of biotech products (limiting U.S. exports of grain and oilseed products), prohibitions on growth hormones in beef production and certain antimicrobial and pathogen reduction treatments (limiting U.S. meat and poultry exports), and burdensome and complex certification requirements (limiting U.S. exports of processed foods, animal products, and dairy products). As such, T-TIP negotiations on agricultural products are conditioned by a number of these long-standing, high-profile transatlantic trade disputes between the United States and EU. Other EU regulations of concern to U.S. exporters include lack of a science-based focus in establishing SPS measures, difficulty meeting food safety standards and obtaining product certification, lack of cohesive labeling requirements, and stringent testing requirements that are often applied inconsistently across EU member nations. USDA reports that removing select non-tariff barriers affecting meats, field crops, and fruits and vegetables could raise U.S. exports to the EU by an additional $4.1 billion over gains estimated from removing tariffs and TRQs (compared to a 2011 base year) across all current 28 EU member states. Major differences exist in how the United States and the EU apply SPS and technical barriers to trade and how each regulates food safety and related public health protection. For more information on SPS issues, see CRS Report R43450, *Sanitary and Phytosanitary (SPS) and Related Non-Tariff Barriers to Agricultural Trade*.

Other U.S. agricultural concerns in the negotiation involve the EU's use of GIs—certain protected product names for foods, wine, and spirits that many U.S. food producers consider to be generic names. Further complicating negotiations regarding GIs are underlying regulatory and administrative differences between the United States and the EU in how each addresses GIs within their respective borders. For more information, see "Geographical Indications (GIs)."

For more detailed information on the role of agriculture in the T-TIP negotiations, see CRS Report R44564, *Agriculture and the Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*; and CRS In Focus IF10240, *Agriculture Issues in U.S.-EU Trade Negotiations*. For additional information on the T-TIP negotiations, see CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*. For other background information on some of the previous trade disputes between the United States and EU, see CRS Report R40449, *The U.S.-EU Beef Hormone Dispute*; and CRS Report R40199, *U.S.-EU Poultry Dispute on the Use of Pathogen Reduction Treatments (PRTs)*.

Status: T-TIP negotiations began in July 2013 with the goal of concluding a "comprehensive and high standard" FTA within two years. That outcome remains uncertain, in part reflecting the complexity of the issues involved and the politically sensitive nature of a number of them. In addition, in June 2016, the United Kingdom (UK) voted to exit the EU (referred to as "Brexit"), and it remains to be seen what impact this will have on the T-TIP negotiation, since the UK accounts for a sizeable share (about 15%) of U.S. agricultural exports to the EU each year, and the exclusion of the UK from the EU could significantly reduce potential U.S. trade gains under a negotiated agreement.

Export Bans on U.S. Meat and Poultry Due to Animal Disease[19]

The United States exports 10-20% of its meat and poultry production to numerous markets around the world. At times, foreign countries impose export bans, often based on questionable grounds, on U.S. product when there is a discovery or outbreak of certain animal diseases. Specifically, bans have been imposed on U.S. beef exports because of the discovery of bovine

[19] Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS.

spongiform encephalopathy (BSE or mad cow disease) in 2003. The outbreak of highly pathogenic avian influenza (HPAI) that ran from December 2014 through May 2015 in U.S. turkey and egg-producing flocks resulted in export bans on poultry products by more than 30 countries. Broiler meat exports were banned even though the HPAI outbreaks were not in areas close to commercial broiler production areas.

The World Organization for Animal Health (known as OIE) has established trade protocols that member states should follow when there are disease outbreaks in countries that export meat and poultry products.[20] According to OIE, in most cases total export bans are not recommended or needed when there is a BSE or HPAI discovery or outbreak in exporting countries. The OIE determined that the United States is a "negligible risk" status for BSE, meaning that the U.S. surveillance and safeguard systems are strong. For HPAI, USDA, in collaboration with states, has implemented increased flock biosecurity and has a system in place to rapidly contain and eradicate an outbreak of HPAI.

Over the years, some foreign markets have imposed total bans on U.S. beef exports because of BSE. Some major markets for the U.S. beef industry have imposed specific conditions on beef exports. For example, Japan and South Korea—two major importers of U.S beef—require that U.S. exports be produced from cattle less than 30 months of age. China continues to ban all U.S. beef exports. During the HPAI outbreak, some foreign markets imposed total bans on poultry exports, while other markets imposed export bans only from the regions affected by the outbreak (the recommended OIE protocol for avian influenza). As the United States demonstrated that the outbreak was contained and eliminated, most of these bans were lifted. However, China, a major market for U.S. broiler meat, continues to ban U.S. poultry exports.

Status: The U.S government has been working for years to reopen China's beef market. In September 2016, China's Ministry of Agriculture announced that it would lift the ban on U.S. beef.[21] The United States and China have been engaged in negotiations to establish the protocol that would allow exports to resume. To date there has been no announcement of such a protocol. On avian influenza, USDA and the USTR will be working with trading partners to encourage them to follow international guidelines when responding to outbreaks.

U.S.-EU Beef Hormone Dispute[22]

The United States and the EU have engaged in a long-standing and acrimonious trade dispute over the EU's ban on hormone-treated meat. The EU adopted restrictions in the early 1980s on livestock production limiting the use of natural hormones to therapeutic purposes, banning the use of synthetic hormones, and prohibiting imports of animals and meat from animals that have been administered the hormones. In response, the United States suspended trade concessions with the EU in 1999 by imposing retaliatory tariffs of 100% *ad valorem* on selected food products from EU countries. Despite an ongoing series of WTO dispute settlement proceedings and decisions, the United States and the EU continue to disagree on a range of legal and procedural issues, as well as the scientific evidence and consensus affirming the safety of hormone-treated beef.

Many in the United States perceive the EU's action and the use of SPS measures and non-tariff barriers as disguised protectionism, intended to unjustifiably restrict and discriminate against product exports from certain countries. In January 2009, USTR announced its intent to make

[20] OIE, *Terrestrial Animal Health Code*, http://www.oie.int/en/international-standard-setting/terrestrial-code/access-online/.

[21] USDA, "China Moves to Reopen Market to U.S. Beef," press release, September 16, 2016.

[22] Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS.

changes to the list of EU products subject to increased tariffs under the dispute, including changes to the EU countries and products affected and additional tariffs on some products. The EU claimed that this action constituted an "escalation" of the dispute. In May 2009, following a series of negotiations, the United States and the EU signed a memorandum of understanding (MOU) that phased-in certain changes over the next several years. As part of this MOU, the EU granted market access to U.S. exports of beef raised without the use of growth promotants, and the United States suspended its retaliatory tariffs for imported EU products under the dispute. For more information, see CRS Report R40449, *The U.S.-EU Beef Hormone Dispute*.

Status: In December 2016, USTR took steps to reinstate retaliatory tariffs on the list of EU products under the dispute. Some attribute these actions to the perceived failure to conclude T-TIP negotiations between the United States and the EU and to continued concerns about U.S. beef access to the EU market.[23] Starting in August 2012, the EU increased the TRQ for "high-quality" (non-hormone-treated) beef to 45,000 metric tons. However, according to USTR and the U.S. beef industry, most of this duty-free quota has been filled by countries other than the United States, including Australia, Uruguay, and Argentina.[24] According to U.S. officials, the "EU has been unwilling to consider an allocation that would reserve a significant part of the TRQ for the United States."[25] USTR has scheduled a public hearing for early 2017.

This issue has also been raised in ongoing trade negotiations between the United States and EU to establish a free trade area as part of T-TIP.[26] Some Members of Congress expect the T-TIP negotiations to resolve long-standing trade disputes regarding SPS rules between the two trading blocs and enhance disciplines to address SPS issues and other non-tariff barriers. Many U.S. farm organizations are unhappy that the provisional agreement continues to allow the EU to maintain its restrictions on U.S. beef imports in a manner that many believe to be inconsistent with WTO rules and with a scientific consensus supporting the safety to consumers of eating hormone-treated meat. To this date, the EU continues to ban imports of hormone-treated meat and restricts most meat exports to the EU to a limited quantity of beef imports that are certified as produced without the use of hormones, beta agonists, and other growth promotants.[27]

U.S-Mexico Sugar Suspension Agreements[28]

In December 2014, the U.S. Department of Commerce (DOC) signed agreements with the government of Mexico and Mexican sugar producers and exporters that fundamentally changed the ground rules over trade in sugar between the two countries. These "suspension agreements" prevented the imposition of countervailing duty and antidumping duties on U.S. imports of Mexican sugar as a consequence of U.S. government determinations that Mexican sugar was

[23] See, for example, *World Trade Online*, "US Takes First Step to Reinstate Duties on EU for Beef Grown Hormone Ban," December 22, 2016.

[24] See, for example, 81 *Federal Register* 95724, December 28, 2016, and National Cattlemen's Beef Association, "NCBA Applauds USTR for Defending U.S. Beef from European," December 22, 2016.

[25] International Trade Administration, *Country Commercial Guide* (Germany), Chapter 4: Trade Regulations, Customs and Standards, http://2016.export.gov/germany/MarketResearchonGermany/CountryCommercialGuide/index.asp.

[26] For more detailed information on the role of agriculture in the negotiation, see CRS Report R44564, *Agriculture and the Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*, and CRS In Focus IF10240, *Agriculture Issues in U.S.-EU Trade Negotiations*. For additional information on the T-TIP negotiations, see CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*.

[27] USTR, 2016 *National Trade Estimate Report*, p. 148, March 23, 2016.

[28] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

being subsidized by the government of Mexico and was being sold into the U.S. market at less than fair value.

The suspension agreements limit Mexico's sugar exports to the United States to the residual of U.S. needs for domestic human use in a given marketing year minus U.S. production and imports from TRQ countries. The agreements establish minimum reference prices for Mexican sugar that are well above U.S. sugar program loan levels. Another provision limits the share of Mexican sugar that can enter the United States as refined sugar. This new regime ushered in by the suspension agreements represents a major course adjustment in U.S.-Mexico sugar trade.

From 2008 until the suspension agreements were signed in December 2014, Mexican sugar had occupied a unique position in the U.S. market in that under the North American Free Trade Agreement (NAFTA), Mexico was accorded unlimited, duty-free access to the U.S. market. Mexico continues to be the largest foreign supplier of sugar to the U.S. market, providing between 11% and 18% of the total of U.S. production plus imports from marketing years 2013/2014 to 2015/2016.

Since the suspension agreements took effect, a number of stakeholders in the U.S. sugar market have soured on them, asserting that they have not worked as intended and do not meet the legal standard of eliminating entirely the injury caused by the subsidization and dumping of Mexican sugar. One widely held criticism is that cane refiners that depend on imports of raw cane from Mexico have received an inadequate share of sugar from Mexico, which exacts a heavy toll on the business operations of these refiners. Another criticism is that Mexican exporters are not always adhering to terms in the agreements on refined versus raw sugar exports nor to the minimum reference prices agreed upon. For more information see CRS In Focus IF10517, *U.S. Stakeholders Critical of U.S.-Mexico Sugar Agreements*.

Status: The suspension agreements have no termination date, but signatories may terminate them at any time. U.S. stakeholders in the sugar market generally agree that the terms of bilateral trade in Mexican sugar need to be changed, but they have mixed views on what actions should be taken. In November 2016, the American Sugar Coalition—representing sugar cane and sugar beet producers and sugar processors, refiners, and workers—called on the DOC to withdraw from the agreements, an action that would cause substantial AD and CVD duties to be imposed on Mexican sugar. Imperial Sugar Company, a U.S. cane refiner, has also advocated for withdrawal. But the Sweetener Users Association, which represents sugar-using businesses, has recommended renegotiating the agreements to address their shortcomings, warning that terminating them would virtually eliminate Mexican sugar from the U.S. market. In November 2016, the DOC issued results of a preliminary administrative review. In it, the DOC concluded that there may be some substance to allegations that the agreements are not meeting the legal standard provided in the statute for removing injury and that certain transactions may not have adhered to the terms in the agreements. But the DOC also added that it needed to gather more information. The agency expects to issue the final results of its review in early April 2017 unless the signatories agree on revised terms for the agreements before then.

U.S. Ultra-Filtered Milk Exports to Canada[29]

Canada's supply management system for its dairy sector—a regime that supports milk prices at high levels relative to world market prices though quotas on domestic production together with high tariff levels and TRQs that restrict imports of dairy products—has long been a source of concern for the U.S. dairy industry. In addition, U.S. dairy interests are concerned about an

[29] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

ingredient pricing strategy the Canadian dairy industry is pursuing. U.S. interests assert that it is intended to further discourage imports of certain U.S. milk product exports to Canada, including ultra-filtered milk, while also facilitating exports of Canadian skim milk products beyond their allowable WTO commitments.

Ultra-filtered milk is a high-protein liquid product that results from separating and concentrating certain milk components (such as protein and fat) for use in the production of dairy products, such as cheese, yogurt, and ice cream. U.S. ultra-filtered milk found a market among Canadian cheese makers after Canada revised its compositional standards for cheese in 2008, which significantly reduced the use of several milk products that U.S. processors had been supplying to Canadian food manufacturers, including milk protein concentrates and dried protein products.

In 2016, in order to make Canadian dairy ingredients competitive with imported products, the province of Ontario adopted a special pricing program (Class 6) that allows for the sale of various domestic dairy ingredients at world market prices rather than the typically higher prices that would prevail under Canada's supply management system. The price farmers receive for milk is adjusted to reflect the Class 6 ingredient prices. U.S. dairy interests contend that the program favors Canadian milk products at the expense of imports, including U.S. milk product exports such as ultra-filtered milk. U.S. dairy interests are concerned that a broadly similar approach to pricing ingredients that was introduced on a temporary basis across Canada last year could be further expanded and implemented longer term once the Canadian Dairy Commission and provincial marketing boards have approved and implemented a proposed National Ingredients Strategy.[30]

According to the U.S. Census Bureau, Canada ranked as the largest U.S. export market for ultra-filtered milk in 2016 with sales of $102 million.[31] U.S. exports of ultra-filtered milk enter Canada duty-free, and U.S. dairy producers, processors, and exporters view Ontario's Class 6 ingredients pricing initiative—and the prospect for a similar Canada-wide program to be designated Class 7—as an attempt to displace these U.S. exports with domestically sourced dairy ingredients. The U.S. dairy industry also contends that this strategy allows Canadian products to be sold below the cost of production, placing similar U.S. products at a disadvantage in Canada, as well as in other export markets where U.S. exporters compete with similar Canadian products. In sum, the U.S. industry asserts that Canadian policies amount to violations of their commitments under NAFTA and the WTO.

An additional concern for the U.S. dairy industry is that Canadian dairy farmers and some Canadian officials refer to U.S. exports of diafiltered milk as being a product that is distinct from ultra-filtered milk. The U.S. industry asserts that diafiltration is merely one step in the ultra-filtration process that does not create a fundamentally different product. The significance is that Canada's compositional standards for cheese do not prescribe limits on the content of milk or ultra-filtered milk, whereas limitations do apply to the content of other dairy products that can be used to make cheese. Canada's Dairy Product Regulations and Food and Drug Product Regulations do not currently define diafiltration.

Status: In a letter of September 12, 2016, to government trade officials, major U.S. dairy market stakeholders—together with their counterparts in several dairy-exporting competitor countries—

[30] USDA Foreign Agricultural Service, Global Agricultural Information Network, *Canada Dairy and Products Annual*, CA 16047, November 7, 2016, https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Dairy%20and%20Products%20Annual_Ottawa_Canada_11-7-2016.pdf.

[31] USDA, FAS, Global Agricultural Trade System. Ultra-filtered milk is exported under HTS code 3504001000, Protein isolates. Ultra-filtered milk is assumed to account for most product exported under 3504001000.

contended that the Canadian dairy industry's ingredients pricing program that has been agreed to in principle violates its commitments under NAFTA, the WTO, and the EU-Canada Comprehensive Economic and Trade Agreement as well as the spirit of TPP.[32] U.S. government officials have expressed concern about the adoption of this scheme to their Canadian counterparts. In January 2017, President Trump issued an order withdrawing the United States from TPP. (See "Trans-Pacific Partnership (TPP)").

2014 Farm Bill and WTO Compliance[33]

As a signatory member of the WTO, the United States has committed to abide by WTO rules and disciplines, including those that govern domestic farm policy.[34] The WTO's general rules concerning subsidy disciplines, trade behavior, and market access concessions apply to all members.

The enacted 2014 farm bill (Agricultural Act of 2014; P.L. 113-79) could result in potential compliance issues for U.S. farm policy with the rules and spending limits for domestic support programs that the United States agreed to as part of the WTO's Uruguay Round Agreement on Agriculture. In general, the act's new farm safety net shifts support away from classification under the WTO's green and amber boxes and toward the blue and amber boxes, indicating a potentially more market-distorting U.S. farm policy regime. Such spillovers, if measurably harmful to foreign export competitors or producers, could lead to challenges under the WTO's dispute settlement process (see "U.S.-Brazil WTO Cotton Dispute Settlement" at the end of this report). For more details, see CRS Report R43817, *2014 Farm Bill Provisions and WTO Compliance*.

The two most prominent revenue support programs established by the 2014 farm bill are the Agricultural Risk Coverage (ARC) and Price Loss Coverage (PLC) programs.[35] Producer participation varies by crop and region under these two programs. Most corn (93%) and soybean (97%) base acres signed up for ARC, while nearly all rice (99%) and peanut (100%) base acres are signed up for PLC. Wheat base was split 58% for ARC and 42% for PLC. Payments under these two programs are delayed substantially because the payment formula for both programs requires complete data from a crop's market year. For example, payments under ARC and PLC for the 2014 crop year are not announced until October 2015, which pushes the actual outlays into the 2016 fiscal year. As a result, ARC and PLC payment data is available only for the 2014 and 2015 crops, but already it has accumulated to over $13 billion for the first two years of these programs. While this sum is substantial, it is uncertain how it may be viewed by foreign competitors that have used the WTO dispute settlement mechanism in the past to address their grievances with U.S. domestic support policies.

Because ARC and PLC payments are made to a portion (85%) of historical base acres irrespective of actual plantings, the programs are partially decoupled from producer behavior. However, program calculations do require current market prices to determine if a payment has been triggered, thus partially coupling them to market conditions. The partial decoupling of both ARC and PLC is in deference to WTO rules. Furthermore, ARC's use of a moving average formula based on historic prices and yields is also in response to a WTO panel stipulation to consider

[32] Letter to trade ministers, September 12, 2016, http://www.idfa.org/docs/default-source/d-news/canada-letter-12sept16a.pdf.

[33] Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

[34] See CRS Report RS20840, *Agriculture in the WTO: Rules and Limits on Domestic Support*.

[35] See CRS Report R43448, *Farm Commodity Provisions in the 2014 Farm Bill (P.L. 113-79)*.

market conditions in setting program support levels, while PLC—with a statutorily fixed reference price—fails on this later point.

An additional WTO consideration is that projected outlays under the new 2014 farm bill's shallow-loss and counter-cyclical price support programs may make it difficult for the United States to agree to future reductions in allowable caps on domestic support expenditures and related de minimis exclusions, as envisioned in ongoing WTO multilateral trade negotiations.

Status: Most studies suggest that, for U.S. program spending to exceed the $19.1 billion cumulative spending limit, a combination of worst-case events would have to occur. Perhaps more relevant to U.S. agricultural trade is the concern that, because the United States plays such a prominent role in most international markets for agricultural products, any distortion resulting from U.S. policy would be both visible and vulnerable to challenge under WTO rules.[36]

U.S. Meat and Poultry Imports

Currently, 33 countries are eligible to export meat and poultry to the United States. Before the United States imports meat or poultry, USDA's Animal and Plant Health Inspection Service (APHIS) conducts risk assessments of any foreign animal diseases that could pose a threat to U.S. animal health through the import of meat or poultry. Also, USDA's Food Safety and Inspection Service (FSIS) must determine if a foreign meat or poultry inspection system provides an "equivalent" level of sanitation and protection of public health as the U.S. system.[37] Foreign governments provide documents that show how inspection systems are regulated, and FSIS conducts onsite audits of foreign facilities. FSIS regularly conducts equivalency verification and periodic audits of countries already approved to export meat and poultry to the United States.

Imports of Chicken from China[38]

In August 2013, USDA's Food Safety and Inspection Service (FSIS) confirmed that China's poultry processing system was equivalent to the U.S. poultry inspection system. This determination allows China to export processed (cooked) poultry meat that is sourced from raw poultry from the United States, Canada, or Chile (the two countries approved to send raw poultry to the United States). In March 2016, FSIS recommended that the process of verifying equivalency for China's poultry slaughter system move forward.[39] These actions were the culmination of a process that began in 2005, when China requested that USDA evaluate its poultry inspection system. Congress halted the process in FY2006, when appropriations provisions prohibited FSIS from expending funds to evaluate China's poultry inspection system. The process resumed in FY2010 on the condition that FSIS provide Congress regular reports on the equivalency process.

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[36] See CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*.

[37] Equivalency is authorized under the Federal Meat Inspection Act (21 U.S.C. § 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. §451 et seq.). Regulations for FSIS equivalency are in 9 C.F.R. 327. See FSIS, "Process for Evaluating the Equivalence of Foreign Meat, Poultry, and Egg Products Food Regulatory Systems," https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/equivalence/equivalence-process-apply-for-initial-equivalence.

[38] Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS.

[39] FSIS, "Evaluating the Food Safety Systems Governing Slaughtered Poultry for Export to the United States," February 17, 2016, https://www.fsis.usda.gov/wps/wcm/connect/bd2f2159-63b2-4846-a738-7983f38f297f/2015-China-Slaughtered-Poultry-FAR.pdf?MOD=AJPERES.

The possibility that the United States could import poultry meat from China has alarmed some food safety advocates and Members of Congress because of concerns about relatively lax food safety enforcement in China for both domestically consumed products and exports. Testimony presented during a Congressional-Executive Commission on China hearing highlighted China's weak track record on food safety.[40] Also, the discovery that a Chinese meat processor was supplied expired meat products to McDonald's, KFC, and other foreign food establishments in China only heightened concern about China's ability to supply safe meat.

Status: In response to concern about China's food safety, Section 730 of the FY2016 appropriations act (P.L. 114-113) prohibits USDA from using any funds to purchase Chinese processed poultry products for feeding programs, including the school lunch and school breakfast programs. In November 2014, China notified FSIS of four processing plants that were eligible to ship product to the United States. There have been no imports to date of processed chicken from China since equivalency was granted. China would be eligible to export Chinese poultry after FSIS completes the rulemaking and comment process and grants equivalency to China's poultry slaughter system. Currently, poultry imports would still be restricted to cooked/processed products because of APHIS restrictions due to the presence of animal diseases in China that could threaten U.S. animal health.

Fresh Beef Imports from Brazil and Argentina[41]

In December 2013, USDA's Animal and Plant Health Inspection Service (APHIS) proposed a rule that would allow fresh beef imports from 13 regions in Brazil.[42] In August 2014, APHIS also proposed a rule to allow fresh beef imports from Patagonia and northern Argentina.[43] In July 2015, APHIS released final rules to allow the import of fresh beef from these regions of Brazil and Argentina.[44] USDA's risk assessments determined that, under certain circumstances, fresh beef could be safely imported from Brazil and Argentina without threatening the foot-and-mouth disease (FMD)-free status of the United States. Some livestock industry stakeholders, such as the National Cattlemen's Beef Association and the National Farmers Union, have expressed opposition to allowing fresh beef from Brazil and Argentina because neither country is considered to be free of FMD. FMD was eradicated in the United States in 1929, and any introduction of the disease back into the United States could be economically devastating for the livestock industry. The Department of Homeland Security has estimated that the cost of an FMD outbreak in the United States could exceed $50 billion.[45]

In May 2015, FSIS found that Brazil's beef inspection system would provide an equivalent level of food safety as the U.S. system.[46] In August 2016, USDA announced that Brazil was approved

[40] Hearing, Congressional-Executive Commission on China, *Pet Treats and Processed Chicken from China: Concerns for American Consumers and Pets*, June 17, 2014, http://www.cecc.gov/events/hearings/pet-treats-and-processed-chicken-from-china-concerns-for-american-consumers-and-pets.

[41] Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS.

[42] 78 *Federal Register* 77370 (December 23, 2013).

[43] 79 *Federal Register* 51508 (August 29, 2014) and 79 *Federal Register* 51528 (August 29, 2014).

[44] 80 *Federal Register* 37923 (July 2, 2015) and 80 *Federal Register* 37935 (July 2, 2015).

[45] U.S. Department of Homeland Security, "A World Free of One of the Most Virulent Animal Diseases," updated October 28, 2013, http://www.dhs.gov/world-free-one-most-virulent-animal-diseases.

[46] The FSIS audit report for Brazil is available at https://www.fsis.usda.gov/wps/wcm/connect/d0c646c1-cc80-4540-b3df-01da1d9e9040/Brazil-2015-FAR.pdf?MOD=AJPERES.

to ship fresh beef to the United States, and the first shipments of fresh beef entered the United States the next month. FSIS has not verified beef inspection equivalency for Argentina.

Status: Beef imports from Brazil enter the United States under a 64,805 metric ton TRQ that is reserved for countries without a specified quota allotment. The United States imported about 300 metric tons of fresh beef from Brazil from September to November 2016. FSIS conducted an audit of beef facilities in Argentina at the end of 2016 and is working with Argentine authorities on verifying equivalency there. Once Argentina is approved to ship, it holds a 20,000 metric ton quota allotment.

U.S. Farm Trade with Cuba[47]

The U.S. embargo on trade and financial transactions with Cuba dates from 1962. The sanctions on Cuba were partially eased in 2000 with regard to U.S. exports of agricultural products with the enactment of the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387). The law allows for one-year export licenses for selling agricultural commodities to Cuba but without the availability of U.S. government assistance, foreign assistance, export assistance, credits, or credit guarantees to finance the trade. The law also denies exporters access to U.S. private commercial financing or credit. All agricultural product transactions must be conducted on a cash-in-advance basis or with financing from third countries.

Since prohibition on sales of U.S. agricultural goods was lifted, Cuba has purchased over $5 billion in agricultural products from 2001 through 2015. In recent years, though, U.S. agricultural exports to Cuba have been declining. Shipments of U.S. farm products to Cuba amounted to $149 million in calendar year 2015, down from $285 million in 2014 and $348 million in 2013. During this three-year period, U.S. farm exports to Cuba amounted to 0.25% of total U.S. farm exports. U.S. farm sales to Cuba have included a variety of farm products, but recently the great majority of this trade has been concentrated among a few product categories. From 2013 to 2015, broiler meat made up 47% of U.S. exports to Cuba in value terms, with soybean meal at 25% of the total, corn at 12%, and soybeans at 10%.

In 2016, ITC, in a report evaluating the effect of U.S. restrictions on agricultural trade with Cuba, noted that Cuba imports 70%-80% of its food needs, which amount to some $2 billion per year.[48] Given the price competitiveness and logistical advantages of key U.S. agricultural products compared with export competitors, ITC indicated that U.S. agricultural exports could expand significantly—to about $800 million within five years—if the remaining U.S. restrictions on trade with Cuba were removed. The report identified corn, wheat, rice, and dairy products (particularly milk powder) as the commodities that could see the greatest dollar increase in exports over the near term. The same report observed that U.S. agricultural suppliers view prohibitions on providing credit on food and agricultural product sales and U.S. restrictions on travel to Cuba as key obstacles to increasing U.S. farm exports to the island nation.

As for agricultural products that Cuba might export to the United States in a post-embargo environment, USDA in 2015 asserted that with time and investment Cuba would likely develop comparative advantages in the production and export of certain citrus and tropical fruit, vegetables, tropical plants, and cut flowers.[49] Some agricultural interests in Florida have

[47] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

[48] USITC, *Overview of Cuban Imports of Goods and Services and Effects of U.S. Restrictions*, March 2016, https://www.usitc.gov/publications/332/pub4597.pdf.

[49] ERS, *U.S.-Cuba Agricultural Trade: Past, Present and, Possible Future*, June 2015, https://www.ers.usda.gov/webdocs/publications/aes87/53141_aes87.pdf.

expressed concern about the prospect of potentially subsidized competition from Cuba and the possibility of exposing U.S. agriculture to invasive pests and diseases. Although the United States is major sugar importer and Cuba continues to export sugar, Cuba's sugar production and exports have diminished sharply in recent decades. Also, the United States tightly manages sugar imports, so any post-embargo access for Cuba to export sugar to the U.S. market would have to be negotiated.

Status: In December 2014, President Obama announced a major shift in U.S. policy toward Cuba aimed at moving away from a sanctions-based policy toward a policy of engagement. The President acknowledged that he does not have the authority to lift the embargo because it is codified into legislation (Section 102(h) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, P.L. 104-114. The LIBERTAD Act ties the lifting of the embargo to conditions in Cuba (including that a democratically elected government is in place). Removing the overall economic embargo would require amending or repealing that law as well as other statutes—such as the Cuban Democracy Act of 1992 (Title XVII of P.L. 102-484) and the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387)—that have provisions impeding normal economic relations with Cuba.

Several bills were introduced in the 114th Congress that would have lifted the embargo altogether, while others focused more narrowly on removing restrictions pertaining to U.S. agricultural sales, including removing the prohibition on private financing of such exports by U.S. entities and even lifting the ban on access to certain U.S. government export promotion programs. These bills were not adopted. For more on U.S. agricultural trade with Cuba and legislative initiatives aimed at expanding that trade, see CRS Report R44119, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*. For information on U.S. policy toward Cuba, see CRS Report R43926, *Cuba: Issues and Actions in the 114th Congress*.

Geographical Indications (GIs)[50]

Geographical indications (GIs) are geographical names that act to protect the quality and reputation of a distinctive product originating in a certain region. The term is most often applied to wines, spirits, and agricultural products. Some food producers benefit from the use of GIs by giving certain foods recognition for their distinctiveness, differentiating them from other foods in the marketplace.[51] In this manner, GIs can be commercially valuable. GIs may also be eligible for relief from acts of infringement or unfair competition. The use of GIs may also protect consumers from deceptive or misleading labels. Examples of registered or established GIs include Parmigiano Reggiano cheese and Prosciutto di Parma ham from the Parma region of Italy, Toscano olive oil from Tuscany, Roquefort cheese, Champagne from the region of the same name in France, Irish Whiskey, Darjeeling tea, Florida oranges, Idaho potatoes, Vidalia onions, Washington State apples, and Napa Valley Wines.

GIs—along with other types of intellectual property such as patents, copyrights, trademarks, and trade secrets—are an example of intellectual property rights (IPR). The use of GIs has become a contentious international trade issue, particularly for U.S. wine, cheese, and sausage makers. In

[50] Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS.

[51] Examples of non-agricultural GIs may include handicrafts or products using local natural resources or techniques "embedded in the traditions of local communities," such as Vetro di Murano glass, Scottish tartans, Marmo di Carrara marble, or Meissner Porzellan porcelain. See European Commission (EC), "Making the Most out of Europe's Traditional Know-How: A Possible Extension of Geographical Indication Protection of the European Union to Non-Agricultural Products," COM(2014) 469, July 15, 2014.

general, some consider GIs to be protected intellectual property, while others consider them to be generic or semi-generic terms. For example, in the United States, "feta" is considered the generic name for a type of cheese; however, it is protected as a GI in Europe. As such, feta cheese produced in the United States may not be exported for sale in the EU, since only feta produced in countries or regions currently holding GI registrations may be sold commercially. GIs are included among other IPR issues in the current U.S. trade agenda.[52]

GIs have been an active area of debate between the United States and EU in the T-TIP negotiation. Laws and regulations governing GIs differ markedly between the United States and EU, which further complicates this issue. Within a potential T-TIP agreement, GIs may likely be included as part of either a chapter on IPR or a chapter on agriculture. The EU's March 2016 draft of a chapter on agriculture includes its proposal regarding GIs.[53]

Complicating this issue further are GI protections afforded to registered products in third country markets. This has become a concern for U.S. agricultural exporters following a series of recently concluded trade agreements between the EU and Canada, South Korea, South Africa, and other countries that in many cases are also major trading partners of the United States. As of May 2016, more than 4,500 product names are registered and protected in the EU for foods, wine, and spirits originating in both EU member states and other countries.

The proposed TPP also addresses GIs in various ways, including allowing TPP countries to comment on and oppose prospective recognition of GIs in other agreements and by obliging TPP members to provide a process for canceling GI protection. For more information, see CRS Report R44556, *Geographical Indications (GIs) in U.S. Food and Agricultural Trade*; CRS In Focus IF10188, *Geographical Indications (GIs) in U.S. Agricultural Trade*; CRS Report R43658, *The U.S. Wine Industry and Selected Trade Issues with the European Union*; and CRS Report R44337, *TPP: American Agriculture and the Trans-Pacific Partnership (TPP) Agreement*.

Status: The EU's use and promotion of its GIs, establishing protected product names for many foods and wines the U.S. consider to be generic names, has been actively debated in the ongoing T-TIP negotiations. As discussed in "U.S.-EU Transatlantic Trade and Investment Partnership (T-TIP)", the outcome of the negotiation remains uncertain, in part reflecting the complexity and the political sensitivity of many of the issues being negotiated. USDA officials have indicated that the United States would likely not agree to EU demands to reserve certain food names for EU producers[54] and have expressed concerns that the EU's system of protections for GIs "doesn't fit well into our trademark system."[55] The EU's GI program also remains a contentious issue for many in the U.S. Congress, particularly among Members with significant dairy sectors. Some have long expressed their concerns about EU protections for GIs, which they claim are being misused to create market and trade barriers.[56] For more information, see CRS Report R43387,

[52] For more information, see CRS In Focus IF10033, *Intellectual Property Rights (IPR) and International Trade*.

[53] EC, "TTIP—Draft Chapter on Agriculture," Article X.1, March 21, 2016, http://trade.ec.europa.eu/doclib/docs/2016/march/tradoc_154371.pdf.

[54] *World Trade Online*, "Vilsack Shoots Down EU GI Demands in Meeting with Agriculture Ministers," June 16, 2014.

[55] A. Marshall, "Vilsack: Biotech, Geographical indications, Cloning Discussed at 'Historic' TTIP Meeting," *Agri-Pulse*, June 17, 2014.

[56] See, for example, comments during a House Committee on Ways and Means, "U.S. Trade Policy Agenda," January 27, 2015, and also during a Senate Finance Committee hearing on "President Obama's 2015 Trade Policy Agenda," January 27, 2015. See also numerous letters from Congress to the Administration, including a letter from Senate leadership to Ambassador Michael Froman, USTR, April 22, 2016; a letter from several Members of Congress to USTR and USDA, May 9, 2014; a letter from Senate Finance Committee chairman and ranking member to USTR, February 12, 2013; and a letter from several Members of Congress to USTR, September 27, 2010. See also letter

Transatlantic Trade and Investment Partnership (T-TIP) Negotiations; CRS Report R43450, *Sanitary and Phytosanitary (SPS) and Related Non-Tariff Barriers to Agricultural Trade*; CRS Report R40449, *The U.S.-EU Beef Hormone Dispute*; and CRS Report R40199, *U.S.-EU Poultry Dispute on the Use of Pathogen Reduction Treatments (PRTs)*.

Agricultural Biotechnology and Genetically Engineered Crops[57]

Agricultural biotechnology[58] refers primarily to the use of recombinant DNA techniques to genetically modify or bioengineer plants and animals so that they have certain desired characteristics. Most crops developed through recombinant DNA technology have been engineered to be tolerant of various herbicides or to be pest resistant by having a pesticide genetically engineered into the plant organism. U.S. soybean, cotton, and corn farmers have rapidly adopted genetically engineered (GE) varieties of these crops since commercialization began in 1996. The United States is the leading country in planting GE crops, accounting for more than 40% of acres growing GE crops worldwide. GE varieties now dominate soybean, cotton, and corn production in the United States.

Elsewhere in the world, however, the adoption and cultivation of GE crops by both producers and consumers has been more mixed. In the EU, for example, GE crops play a much more limited role. In the EU, GE crop production accounts for only about 1% of EU crop acreage, all in a single variety of pest-resistant GE corn.[59] This GE corn is cultivated mostly in Spain, with Portugal, the Czech Republic, Slovakia, and Romania having much smaller GE acreage. Several EU countries have completely banned the cultivation of GE crops in their territories or have specific rules on the trade of GE seeds. While EU officials have been cautious in permitting GE products to be cultivated in the EU, EU-approved varieties of GE commodities can be imported.[60] To date, very few GE varieties have been authorized (approved) by EU authorities for commercial cultivation. All GE-derived food and feed must be labeled as such. The EU's regulatory framework regarding biotechnology is generally regarded as one of the most stringent, and more onerous, systems worldwide. Many U.S. producers assert that EU labeling and traceability regulations and the lack of timelines and transparency in the EU process for admitting GE crops and that products approved in the U.S. have effectively limited certain U.S. agricultural exports to the EU. This could become a more contentious issue in the context of the T-TIP negotiations. Also, in January 2015, the European Parliament voted to allow each member country to ban or approve GE crops in their respective territories. This action will likely further complicate T-TIP negotiations on biotechnology policy.

While the EU as a policymaking entity generally supports GE production, public opinion remains strongly opposed to GE food and crops in most EU member states. This opposition in the EU has also been an important factor in the acceptance of GE crops in lesser developed countries (LDC). Nine of the 14 LDCs to have approved commercial planting of GE crops are in Latin America. Most African countries have largely followed the EU in restricting or banning the cultivation of

referenced in Senator Pat Roberts, "Sens. Roberts and Baldwin Fight to Protect U.S. Producers against Ridiculous EU Trade Demands on Names of Meat Products," press release, April 4, 2014.

[57] Prepared by Tadlock Cowan, Analyst in Natural Resources and Rural Development, CRS.

[58] Also commonly referred to as genetically modified organisms (GMOs) or genetically engineered (GE) crops.

[59] A variety of GE potato was approved for cultivation and sale by the EC in 2010, but this approval was subsequently overturned by the General Court of the EU in 2013.

[60] Approximately 50 varieties of GE crops have been authorized in the EU. These include varieties of corn, cotton, rape seed, soybeans, and sugar beets. For a description of approved GE varieties see EU, "EU Register of Authorised GMOs," http://ec.europa.eu/food/dyna/gm_register/index_en.cfm.

GE crops. South Africa, Egypt, Burkina Faso, and Sudan are the only African countries where GE crops are grown commercially. The Philippines is the only Asian country to have approved a GE crop for cultivation other than cotton. India, China, and Pakistan are also major producers of GE cotton.

U.S.-China negotiations on agricultural biotechnology have also seen little progress on approving GE crops. China's biotechnology approval process has been a priority of the Obama Administration. In September 2016, China agreed to improve its agricultural biotechnology approval process. That commitment did not include specific details of what China would actually do to improve the process. Both China and the United States reaffirmed the importance of implementing transparent and predictable approval processes for agricultural biotechnology products. However, at the U.S.-China Joint Commission on Commerce and Trade meetings in November 2016, the United States again failed to secure commitments from China to improve its approval process for GE crops.

In addition to variance in approval processes by different countries, trade negotiations concerning agricultural biotechnology also involve labeling issues for GE products and the virtual impossibility of keeping GE material and non-GE material completely segregated in commodity supply chains.

Status: From the United States perspective, an objective for both the T-TIP negotiations and the TPP agreement has been to establish a common framework for GE approvals, the development of labeling practices consistent with the U.S. Food and Drug Administration (FDA) guidelines, and the implementation of policies concerning GE presence that are consistent with the Codex Alimentarius Commission *Annex on Food Safety Assessment in Situations of Low-Level Presence of Recombinant-DNA Plant Material in Food*. At this time, positions appear to be hardening between the United States and the EU relative to agricultural biotechnology. Any progress toward narrowing the differences between the U.S. and the EU will likely revolve around harmonizing the U.S. and the EU regulatory regimes. To date, little movement toward a common position has been seen. Similar steps to implementing the GE approval process in China have also seen little positive movement.

U.S.-EU Dispute Over Pathogen Reduction Treatments (PRTs)[61]

In January 2009, the United States escalated a long-running dispute with the EU over its refusal to accept imports of U.S. poultry treated with certain pathogen reduction treatments (PRTs). PRTs are antimicrobial rinses that have been approved for use by the USDA in poultry production to reduce the amount of microbes on meat. Meat and poultry products processed with PRTs are judged safe by the United States and also by European food safety authorities. Nevertheless, the EU prohibits the use of PRTs and the importation of poultry treated with these substances. The EU generally opposes such chemical interventions and asserts that its own poultry producers follow much stricter production and processing rules that are more effective in reducing microbiological contamination than simply washing products at the end of the process.

This dispute dates to 1997, when the EU first banned the use of PRTs on poultry. This effectively shut out virtually all imports from the United States. Such treatments are routinely used in U.S. chicken and turkey plants. The United States views the EU ban as a trade barrier that is not based on scientific evidence showing that such treatments are harmful. EU interests believe that stronger sanitary practices during production and processing are more appropriate for pathogen control than what they view as U.S. overreliance on PRTs. The United States requested WTO

[61] Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS.

consultations with the EU on the matter, a prerequisite first step toward the establishment of a formal WTO dispute settlement panel. A WTO panel was established in November 2009, but this case has not moved forward. For more information, see CRS Report R40199, *U.S.-EU Poultry Dispute on the Use of Pathogen Reduction Treatments (PRTs)*.

Status: To date, the United States and EU have not been able to reach agreement on a number of issues related to veterinary equivalency, and the EU continues to maintain measures that prohibit the use of any substance other than water to remove contamination from animal products unless the substance has been approved by the European Commission.[62] Applications by USDA to the EU's health agencies requesting approval to use certain poultry treatments have not been approved by the European Commission.[63] The United States is seeking approval of four PRTs: peroxyacetic acid, chlorine dioxide, acidified sodium chlorite, and trisodium. This issue has also been raised in ongoing trade negotiations between the United States and EU to establish a free trade area as part of T-TIP.[64] The U.S. poultry industry has indicated that it is unlikely to support a T-TIP agreement that does not provide for better access to the EU for U.S poultry products.[65]

Ractopamine Trade Restrictions[66]

Ractopamine, an animal drug that increases animal weight gain and meat yield, is approved by the FDA for use in U.S. cattle, hog, and turkey production. It is approved for use in countries such as Canada, Japan, Mexico, and South Korea, but many other countries ban the use of ractopamine in meat production. In 2012, the Codex Alimentarius—the international food standards organization that sets guidelines to protect public health and ensure fair practices in the food trade—set maximum residue levels for ractopamine in beef and pork. However, several of the largest markets for U.S. meat exports have restricted imports of meat produced with ractopamine, despite the residue standards established by Codex. The USTR highlighted in the *2016 National Trade Estimate Report* and the *2016 USTR Report to Congress on China's WTO Compliance* several major markets (including the EU, Taiwan, Thailand, and China) that restrict U.S. meat exports produced with ractopamine. According to FSIS, U.S. meat exports—particularly pork—may be shipped to markets with ractopamine restrictions if the exported product is raised without ractopamine and is certified through USDA's Never Fed Beta Agonists Program.[67] U.S. exports to markets that have ractopamine restrictions face increased certification and testing costs, potentially dampening market opportunities.

Status: USDA and the USTR continue to engage with trading partners on ractopamine issues.

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[62] USTR, 2016 *National Trade Estimate Report*, March 23, 2016, p. 150.

[63] Testimony by William P. Roenigk, National Chicken Council, at a Senate Finance Committee hearing on the Transatlantic Trade and Investment Partnership, October 30, 2013.

[64] For more detailed information on the role of agriculture in the negotiation, see CRS Report R44564, *Agriculture and the Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*; and CRS In Focus IF10240, *Agriculture Issues in U.S.-EU Trade Negotiations*. For additional information on the T-TIP negotiations, see CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*.

[65] Testimony by William Roenigk, National Chicken Council, at a Senate Finance Committee hearing on the Transatlantic Trade and Investment Partnership, October 30, 2013; and C. Perkins, "U.S. Poultry Industry Raises Concerns about TTIP," *Global Meat*, June 4, 2013.

[66] Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS.

[67] USDA, *Never Fed Beta Agonists Program*, https://www.ams.usda.gov/services/imports-exports/beta-agonists.

Trade Adjustment Assistance for Farmers (TAAF)[68]

The origin of the Trade Adjustment Assistance for Farmers program can be traced back to a Department of Labor report in 2000 recommending that a separate program be enacted to assist agricultural producers and workers affected adversely by imports. Observers stated that farmers and ranchers typically did not qualify for the existing Trade Adjustment Assistance (TAA) for trade-affected workers program because they were self-employed; that farmers were less likely to want to be retrained for a new occupation; and that those producers most likely to be affected by import surges were those producing a commodity that receives little or no price protection under traditional farm support programs.

Accordingly, the Trade Act of 2002 established a new Trade Adjustment Assistance for Farmers (TAAF) program.[69] The U.S. Department of Agriculture's (USDA's) Foreign Agricultural Service (FAS) is the lead administrative agency for the TAAF program, with responsibility for certifying eligible commodities and producer groups. USDA's Farm Service Agency (FSA) has responsibility for processing and approving individual applications for assistance under TAAF, and for disbursing cash payments to eligible producers. A third USDA agency, the National Institute for Food and Agriculture (NIFA), provides training and technical assistance to producers who are approved for TAAF benefits.

Under TAAF, support is available in the form of enhanced technical assistance and seed money to enable a producer to formulate and implement a business adjustment plan. Producers of raw and natural agricultural commodities (crops, livestock, farm-raised aquatic products, and wild-caught seafood that competes with aquaculture products) and of "any class of goods within an agricultural commodity" must follow a two-part process to receive benefits.

To be certified, a group of commodity producers must first show that imports were a significant cause for at least a 15% decline in one of three factors: the price of the commodity in question, the quantity of the commodity produced, or the production value of the commodity. Once a producer group is certified, an individual producer within that group must meet three requirements to be approved for program benefits. The benefits include technical assistance with a training component and financial assistance.

From 2009 to 2011, USDA certified 10 of 30 petitions filed by producers of five commodity groups—shrimp, catfish, asparagus, lobster, and wild blueberries. USDA approved TAAF benefits for about 4,500 individual producers in FY2010, and for about 5,700 producers in FY2011. A 2013 audit by the USDA's Office of Inspector General (OIG) identified several shortcomings in administering the program, including determining eligibility and providing effective oversight.[70]

Status: Under P.L. 114-27, TAAF is authorized to receive $90 million annually for FY2015 through FY2021, subject to annual appropriations. Congress has not appropriated funding since the first quarter of FY2011 (i.e., October through December 2010), and as a result, the program has been inactive. TAAF was last funded under Section 1887 of P.L. 111-5 (the American Recovery and Reinvestment Act of 2009, approved February 17, 2009), which authorized and appropriated $90 million in each of FY2009 and FY2010, and $22.5 million for the first quarter

[68] Prepared by Mark A. McMinimy, Specialist in Agricultural Policy, CRS.

[69] P.L. 107-210, §§141-142, approved August 6, 2002, 116 Stat. 946 (19 U.S.C. 2401 et seq.).

[70] USDA, Office of Inspector General, *American Recovery and Reinvestment Act, Trade Adjustment Assistance for Farmers*, Audit Report 50703-001-23, October 2013, https://www.usda.gov/oig/webdocs/50703-0001-23.pdf.

of FY2011.[71] For more information see CRS Report R40206, *Trade Adjustment Assistance for Farmers*.

Generalized System of Preferences (GSP)[72]

The Generalized System of Preferences (GSP) provides duty-free tariff treatment for certain products from designated developing countries. Agricultural imports under GSP totaled $2.6 billion in 2015, nearly 15% of the value of all U.S. GSP imports. Leading agricultural imports (based on value) include processed foods and food processing inputs, beverages and drinking waters, processed and fresh fruits and vegetables, sugar and sugar confectionery, olive oil, fresh fruits, and miscellaneous food preparations and inputs for further processing. The majority of these imports are from Thailand, Brazil, India, Indonesia, and Turkey, which combined account for roughly two-thirds of total agricultural GSP imports.

GSP was most recently extended until December 31, 2017 (Title II of P.L. 114-27). Over the past decade, GSP renewal has been somewhat controversial. Some in Congress have continued to call for changes to the program, including tightening its requirements on imports under certain circumstances. The most recent extension designated new product categories as eligible for GSP status, including some cotton products (for least-developed beneficiaries only) and other non-agricultural products. In addition, certain countries have been suspended from GSP. In October 2014, Russia's GSP status was officially terminated. Previously, in March 2012, Argentina's benefits under the program were suspended. In September 2015, President Obama announced, among other things, that Seychelles, Uruguay, and Venezuela had become "high income" countries and would no longer be eligible to receive GSP benefits, effective January 1, 2017. Opinion within the U.S. agriculture industry is mixed, reflecting both support for and opposition to the current program. For more information, see CRS Report RS22541, *Generalized System of Preferences: Agricultural Imports*. For additional background on GSP, see CRS Report RL33663, *Generalized System of Preferences: Overview and Issues for Congress*.

Status: Authorization for GSP expires on December 31, 2017. Renewal of the program may become a legislative issue in the 115th Congress. In the past few years, Congress has extended GSP through a series of short-term extensions. Congressional leaders also have continued to express an interest in broadly evaluating the effectiveness of all U.S. trade preference programs, including GSP, so broader reform of these programs is a possibility.

Doha Round Agriculture Negotiations[73]

World Trade Organization (WTO) multilateral trade negotiations have been ongoing since November 2001. The negotiations—referred to as the Doha Development Agenda (DDA) or simply the Doha Round—encompass four broad areas of trade reform: agriculture, non-agriculture market access (NAMA), rules, and services. An important goal of the Doha Round negotiations is to liberalize trade in goods, including agricultural products. The agriculture negotiations have focused on three broad areas—domestic agricultural support programs, market

[71] The statute that established the TAAF program (the Trade Act of 2002) authorized and appropriated to USDA funds not to exceed $90 million for each of FY2003 through FY2007. Section 1(c) of P.L. 110-89 authorized $9 million in appropriations for the first quarter of FY2008 (October 1 to December 31, 2007). No funding was authorized during the remainder of FY2008. Funding for FY2009 became available in mid-May 2009, when the changes made to TAA programs by P.L. 111-5 took effect.

[72] Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS.

[73] Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

access, and export competition—often referred to as the three pillars of the WTO's Agreement on Agriculture.

Agriculture negotiations in the Doha Round have attempted to maintain a balance across the three pillars by simultaneously achieving concessions from exporters and importers alike in the form of tighter spending limits on trade-distorting domestic support; elimination of export subsidies and new disciplines on other forms of export competition; and expansion of market access by lowering tariffs, increasing quota commitments, and limiting the use of import safeguards and other trade barriers.[74] From the U.S. perspective, a successful Doha Round would substantially increase access for U.S. agricultural products in foreign markets in exchange for significantly lowering allowable spending limits for certain types of U.S. domestic support and ending export subsidies.

Proponents assert that a successful WTO Doha Round of multilateral trade negotiations offers the prospect of enormous market efficiencies and trade gains. The largest potential area of gain for the United States is in expanded market access to foreign consumers. However, U.S. trade officials, Members of Congress, and commodity groups have expressed concern that the current WTO Doha Round draft agreement on agricultural trade liberalization includes too many exceptions for foreign importers to ensure an adequate balance between potential market access gains for U.S. agricultural products and U.S. domestic support reduction concessions. For additional detail, see CRS Report RS22927, *WTO Doha Round: Implications for U.S. Agriculture*.

Status: By 2009, outstanding differences in the Doha Round had been reduced to a short list of contentious issues, including designating additional products as "sensitive," coupled with establishing new tariff quotas; designating developing country products as "special," and thus exempt from tariff reductions; and allowing developing countries to raise tariffs temporarily to deal with import surges or price declines. However, these differences proved sufficient to deadlock the negotiations. The Doha Round of multilateral trade negotiations has been at an impasse since 2009 and presently shows no signs of restarting, despite an interim agreement reached at the December 2013 Bali Ministerial.

Implementation of December 2013 Bali Agreement[75]

At the World Trade Organization's (WTO's) Ninth Ministerial Conference in Bali, Indonesia, December 3-7, 2013, ministers adopted the so-called Bali Package. The package has measures dealing with four principal categories: Trade Facilitation, Agriculture (with five sub-issues described below), and Development and Least-Developed Country (LDC) Issues. From the United States' viewpoint, the major policy initiative is the Trade Facilitation Agreement (TFA), which aims to improve the efficiency of international trade by harmonizing and streamlining customs procedures such as duplicative documentation requirements, customs processing delays, and nontransparent or unequally enforced importation rules and requirements. Implementation of the Bali Package is expected to facilitate U.S. and international agricultural trade—slowly at first but more substantially longer term.

With respect to agricultural interests, the Bali Agreement addressed five issues: (1) export competition—reconfirms a commitment to eliminate all export subsidies as part of the ongoing

[74] For current negotiating modalities, see "Revised Draft Modalities for Agriculture," TN/AG/W/4/Rev.4, Committee on Agriculture, WTO, December 6, 2008. For a lay overview of the modalities, see "Unofficial Guide to the Revised Draft Modalities—Agriculture," Information and Media Relations Division, WTO, corrected December 9, 2008.

[75] Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

Doha Round, and asks for greater transparency and restraint in their use prior to their final elimination; (2) tariff rate quota (TRQ) administration—addresses persistently under-filled quotas; (3) temporary peace clause (established through 2017)—provides relief from challenge under the WTO dispute settlement process for a developing country's above-market purchases of commodities for food-security stockholding programs (described in more detail below), while working to find a permanent solution; (4) proposed list of green-box-eligible[76] LDC-focused general services—adds new criteria of particular interest to developing countries to existing exemptions; and (5) cotton—regrets lack of progress in addressing LDC-related cotton issues, reiterates commitment to progress in negotiations on cotton, commits to meet twice yearly to study related issues, and reaffirms the importance of cotton to LDCs. At the time, analysts predicted that a successful Bali Package—boosted primarily by substantial efficiencies in trade facilitation—could increase global gross domestic product by $1 trillion. However, many hope that its ultimate benefit will be a rejuvenation of the Doha Round. For more details, see CRS Report R43592, *Agriculture in the WTO Bali Ministerial Agreement*.

Status: Implementation of the Bali Agreement and the five agriculture sub-issues are not expected to present any significant difficulties for the United States. The 2014 farm bill eliminated the last U.S. export subsidy program—the Dairy Export Incentive Program (DEIP), while the green box changes and proposed cotton negotiations are extensions of the status quo. In contrast, in the long run both the streamlined trade facilitation and the TRQ administration initiative are expected to result in lower marketing costs and positive market access gains for U.S. agricultural exports. However, developments in regards to the food-security stockholding programs (see "U.S.-India Agricultural Trade Issues" below) merit special attention and monitoring to avoid potential disruptions to commercial trade activity.

U.S.-India Agricultural Trade Issues[77]

A key unresolved negotiating issue from the Doha Round is the specifics of a proposed SSM—a controversial safeguard mechanism that could be used by developing countries to temporarily protect producers of special products when imports surge. Disagreement over the size of surge in import volume needed to trigger a Special Safeguard Mechanism (SSM), as well as the size of the temporary SSM tariff, is a primary factor behind the current impasse of the Doha Round. Two key opponents in the SSM debate were India (joined by China) and the United States (joined by the European Union and most of the Cairns Group of countries). The SSM issue remains largely unresolved, and the Doha Round remains deadlocked and moribund.

A similar fate was narrowly avoided by the Bali Agreement when India proposed delaying the July 31 deadline for approval of the Trade Facilitation Agreement (TFA) protocol until a permanent solution was reached on the issue of food stockholding programs. India wanted a permanent solution to exempt such programs—in which governments buy domestic commodities at above-market prices to distribute to poor populations—from counting toward WTO subsidy limits. Several WTO members, including the United States, preferred a temporary agreement followed by discussions regarding safeguards to prevent food stocks from leaking into commercial markets before a permanent agreement could be reached. The impasse was resolved in November 2014, when the United States and India reached an understanding on food stockholding that would permit the WTO to move forward with full implementation of the Bali Agreement.

[76] Domestic support measures that are "green-box-eligible" are allowed without limit, because they either do not distort trade or do so only minimally.

[77] Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

Disagreement between the United States and India within WTO multilateral trade negotiations are at least partially responsible for the current stalemate in the Doha Round of negotiations and nearly sidelined the recently completed Bali Agreement. Progress in bilateral negotiations between India and the United States over a food-security stockholding program were the key to breaking a deadlock in the Bali Agreement and could play a similar role for the currently stymied Doha Round negotiations as regards disagreement over a SSM.

Status: U.S. and Indian trade negotiators managed to find agreement on the food stockholding issue within the context of the Bali Agreement, suggesting that a parallel pattern could perhaps be adopted to address lingering trade issues such as the SSM within the Doha Round of negotiations. While the Doha Round involves several other major trade partners, each with their own set of special interests, it is undeniable that, were the United States and India to find agreement on the SSM issue, such agreement could provide special impetus to find agreement on the remaining unresolved Doha Round issues.

Country-of-Origin Labeling (COOL)[78]

In March 2009, USDA implemented a final rule to implement country-of-origin labeling (COOL) to provide consumers information on the origin of fresh fruits and vegetables, fish, shellfish, peanuts, pecans, macadamia nuts, ginseng, and ground and muscle cuts of beef, pork, lamb, chicken, and goat. The rules were required by the 2002 farm bill (P.L. 107-171) as amended by the 2008 farm bill (P.L. 110-246).

In 2009, Canada and Mexico challenged U.S. COOL in the WTO, arguing that COOL had a trade-distorting impact by reducing the value and number of cattle and hogs shipped to the U.S. market, thus violating WTO trade commitments. In 2011, the WTO found that COOL treated imported livestock less favorably than U.S. livestock and did not meet its objective to provide complete information to consumers on the origin of meat products. The United States appealed the WTO ruling, but the Appellate Body upheld the findings. USDA issued a revised COOL rule in May 2013, which required that production steps—born, raised, and slaughtered, by origin country—be included on meat labels, but in 2014 the WTO found that the revised COOL regulations still violated its WTO obligations by discriminating against imported livestock. In December 2015, the WTO authorized Canada and Mexico to retaliate against $1 billion worth of products imported from the United States.

Status: In December 2015, Congress repealed the COOL requirements for beef and pork and ground beef and pork in Section 759 of the enacted Consolidated Appropriations Act, 2016 (P.L. 114-113). USDA then issued a final rule that removed beef and pork from COOL regulations, thus settling the trade dispute, but Canada and Mexico retain their rights granted by the WTO to retaliate if the United States should implement laws or regulations that violate the WTO findings on U.S. COOL for beef and pork. For further details on the case, see CRS Report RS22955, *Country-of-Origin Labeling for Foods and the WTO Trade Dispute on Meat Labeling*.

U.S.-Brazil WTO Cotton Dispute Settlement[79]

The so-called "Brazil-U.S. cotton case" was a long-running WTO dispute settlement case initiated in 2002 by Brazil—a major cotton export competitor—against specific provisions of the U.S. cotton program. Brazil charged that U.S. cotton programs were depressing international

[78] Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS.

[79] Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS. For more details, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*.

cotton prices and thus artificially and unfairly reducing the quantity and value of Brazil's cotton exports, causing economic harm to Brazil's domestic cotton sector. On October 1, 2014, Brazil and the United States reached an agreement to resolve the long-running cotton dispute when they signed a memorandum of understanding (MOU) that spelled out the terms of the agreement. Under the MOU, Brazil relinquished its rights to countermeasures against U.S. trade or any further proceedings in the dispute; the United States agreed to new rules governing fees and tenor for the GSM-102 export credit guarantee program; Brazil agreed to a temporary Peace Clause[80] with respect to any new WTO actions against U.S. cotton support programs while the 2014 farm bill is in force or against any agricultural export credit guarantees under the GSM-102 program as long as the program is operated consistent with the agreed terms of the MOU; the United States would make a one-time final payment of $300 million to the Brazil Cotton Institute (BCI) with explicit use-of-fund conditions; and both counties agreed to routine semi-annual reporting under the MOU.

The successful resolution of the WTO cotton dispute (largely in Brazil's favor) avoided a trade war between two of the world's major agricultural trading nations, the United States and Brazil, while resulting in substantial and substantive changes in U.S. domestic support programs for upland cotton and the U.S. export credit guarantee program. The resolution to the cotton case could have an important bearing on how domestic support programs are treated in future WTO trade negotiations or in future dispute settlement cases. In addition to the implications for domestic support policy, the heightened attention surrounding the WTO Brazil-U.S. cotton case has set precedent by singling out cotton for special treatment within ongoing WTO trade negotiations. Finally, Brazil's successful challenge of certain aspects of the U.S. cotton program under the rules of the WTO's dispute settlement process could serve as a role model for future domestic support-related trade disputes against U.S. farm programs. For more details, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*.

Status: The inability of the WTO to move forward with the Doha Round of multilateral trade negotiations suggests that the WTO may not rapidly achieve the global trade goals of its members. As a result, the WTO's dispute settlement mechanism—which remains a primary forum for allowing members to resolve trade grievances—could likely serve as the primary mechanism for effecting future change in domestic support policies. However, there are reasons why challenges may rarely be filed—disputes are economically and diplomatically costly, and a lost challenge can help to legitimize the disputed program.

[80] The peace clause provides temporary immunity from challenge against domestic support measures while the MOU is in force.

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