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Major Agricultural Trade Issues in the 114th 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.

Trade, including agricultural trade, is clearly on the national agenda in the 114th Congress. The United States is engaged in negotiating two large regional trade agreements—the Trans-Pacific Partnership (TPP) among 12 Pacific-facing nations, and the Transatlantic Trade and Investment Partnership (T-TIP) with the European Union. These agreements hold the potential to expand foreign markets for U.S. farmers and food processors by eliminating, or substantially lowering, tariffs and restrictive quotas around certain commodities, such as rice and pork in Japan, or by dismantling supply management programs that protect poultry, eggs, and dairy in Canada. Also on the negotiating agenda are non-tariff trade barriers, including certain sanitary and phytosanitary (SPS) measures that governments employ to safeguard human, animal, and plant health, but which may also be used to deter imports. Geographic Indications (GI) that restrict the use of common names for certain agricultural products and can thereby impede trade in U.S. farm products are on the agenda of U.S. negotiators in both TPP and T-TIP. At the global level, further liberalization of agricultural trade is an objective of the Doha Round of multilateral trade negotiations under the World Trade Organization (WTO), but those talks have effectively stalled.

Numerous other trade issues of importance to U.S. agriculture are currently in play. Among these, U.S. producers are often subject to import bans that are not supported by internationally recognized animal health and food safety standards, including bans on U.S. poultry products due to avian influenza, and on beef and pork owing to the use of ractopamine to boost weight gain and meat yield. At the same time, the United States currently is appealing a WTO decision that determined its country-of-origin labeling (COOL) regulations on marketing of meat violate its WTO obligations. President Obama's overture in December 2014 to engage Cuba and normalize relations has drawn the support of many in the agricultural community who see the potential to markedly expand exports of U.S. agricultural products to Cuba if Congress were to further ease, or remove entirely, existing restrictions on trade with that country. Agreements the United States struck with Mexico late in 2014 have recast the terms of bilateral trade in sugar, but the two suspension agreements currently are being challenged by some U.S. sugar refiners.

Congress traditionally has displayed a keen interest in agricultural trade issues given their importance to agriculture and to the economy at large. Congress has a consequential role to play in many of these trade matters—from providing direction to U.S. trade negotiators within the context of TPP or T-TIP to considering whether to provide the Administration with Trade Promotion Authority (TPA) to facilitate the negotiation and congressional consideration of any trade agreements. Also of potential interest if Congress considers trade legislation are trade-related programs for which authorization has expired. Two such are Trade Adjustment Assistance for Farmers (TAAF), which provides technical and financial assistance to producers who are adversely affected by import surges, and the Generalized System of Preferences (GSP), which provides duty-free tariff treatment for certain products from designated developing countries.

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Overview of U.S. Agricultural Exports¹

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. The U.S. Department of Agriculture (USDA) forecasts U.S. agricultural exports in FY2015 will amount to \$143.5 billion. If realized, this total would be a decline of \$9 billion from FY2014 but would still rank as the second highest on record. The forecast decline in the value of farm exports in FY2015 reflects mainly expected lower market prices for bulk commodities. U.S. agricultural imports are forecast to climb to \$116 billion in FY2015 from \$109.2 billion in FY2014, resulting in an agricultural trade surplus of \$27.5 billion, which would compare with \$43.3 billion in FY2014, and an average of \$37.1 billion from FY2010 through FY2014.

Agricultural exports are important both to farmers and to the U.S. economy. From 2011 to 2013—the most recent calendar years for which figures are available—the value of U.S. agricultural exports accounted for between 10% and 11% of total U.S. exports and about 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 2012, each dollar of agricultural exports stimulated an additional \$1.27 in business activity. Moreover, that same year, agricultural exports generated an estimated 929,000 full-time civilian jobs, including 622,000 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, the importance of exports looms even larger, accounting for around 20% of total agricultural production.⁴ Export markets are a major outlet for many farm commodities, in some cases absorbing over one-half of U.S. output, including wheat, cotton, and some specialty crops.

Within the overall mix of agricultural exports, soybeans, wheat, and feed crops continue to rank at or near the top of the list of farm exports by value, but the composition of exports continues to shift away from bulk commodities in favor of high value products (HVPs). The HVP category includes such products as live animals, fruits and vegetables, nuts, fats, hides, feeds, sugar products, meat, milk, grain products, and processed fruits and vegetables. The HVP share of the value of total U.S. agricultural exports rose from 63.5% in 2012 to 65.4% in 2014. USDA forecasts its share will increase to 70% in 2015.

Nearly every state exports agricultural commodities. In calendar year 2012, the 10 leading states based on the value of farm exports were California, Iowa, Illinois, Minnesota, Nebraska, Texas, Kansas, Indiana, North Dakota, and Ohio. In aggregate, these 10 states accounted for 56% of the total value of U.S. agricultural exports that year.

¹ Prepared by Mark A. McMinimy, Analyst in Agricultural Policy, CRS (7-2172).

² USDA, Economic Research Service (ERS), Value of U.S. Trade—Agricultural and Total, April 23, 2014, http://www.ers.usda.gov/topics/international-markets-trade/us-agricultural-trade.aspx#U-Jv_iiZjTp.

³ USDA, Economic Research Service, Effects of Trade on the U.S. Economy. <http://www.ers.usda.gov/data-products/agricultural-trade-multipliers/effects-of-trade-on-the-us-economy.aspx#U-JsVSizjTo>.

⁴ USDA, ERS, "U.S. Agricultural Trade, Export Share of Production," <http://www.ers.usda.gov/topics/international-markets-trade/us-agricultural-trade/export-share-of-production.aspx#U-J86SiZjTq>, and telephone conversation with Alberto Jerardo, USDA, ERS on August 6, 2014.

Status: Congress reauthorized major agricultural export promotion programs in February 2014 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 Issues*, by Mark A. McMinimy.

Trans-Pacific Partnership (TPP)⁵

The Trans-Pacific Partnership (TPP) is a proposed regional free trade agreement (FTA) being negotiated among the United States, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The United States joined the negotiations in 2010. Among more than 20 chapters involved in the negotiations, agricultural trade liberalization is central to completing a TPP agreement. The market for agricultural imports among TPP countries averaged \$279 billion between 2010 and 2012.⁶

Within this process, a key roadblock has been the inability of the United States and Japan to come to terms on market access for a handful of farm commodities that Japan considers to be sensitive and in need of continued import protection. Resolving the market access issues with Japan appears to be a crucial stepping stone for substantially concluding the agricultural dimension of an agreement and thus moving the broader TPP negotiations toward an end point.

U.S. agriculture has both offensive and defensive interests in the TPP negotiations. A potential positive is the prospect of improving access to the three most commercially significant countries with which the United States does not yet have a free trade agreement (FTA), i.e., Japan, Malaysia, and Vietnam. On the defensive side of the ledger, the U.S. sugar industry is opposed to providing additional access to the U.S. sugar market, while the U.S. dairy industry has both offensive and defensive interests.

Japan—currently the fourth largest market for U.S. agricultural exports—is generally considered to be the most promising market within the TPP group for U.S. agriculture. A USDA study issued in 2014 concluded that Japan would likely absorb about 70% of the expansion in interregional agricultural imports under TPP from 2014 to 2025, with the United States gaining one-third of the additional farm exports. But realizing this potential is contingent upon Japan either dismantling, or substantially rolling back, the high tariffs and restrictive quotas that surround its most sensitive commodities. These measures protect Japanese producers of pork, beef, rice, wheat, barley, dairy products, and sugar by discouraging imports. Of these, beef, pork, and dairy appear to rank as the top priorities for U.S. market-opening effort.

Concern about expanding market access for U.S. agricultural products in a TPP agreement is not limited to Japan alone. For instance, Members of Congress and Agriculture Secretary Tom Vilsack have cited import protections that Canada maintains to shield support prices under supply management regimes for its poultry, egg, and dairy industries as an obstacle to concluding a TPP agreement that includes Canada.

⁵ Prepared by Mark A. McMinimy, Analyst in Agricultural Policy, CRS (7-2172).

⁶ U.S. Department of Agriculture, Economic Research Service Report Number 176, October 2014, *Agriculture in the Trans-Pacific Partnership*, <http://www.ers.usda.gov/publications/err-economic-research-report/err176.aspx>.

Beyond market access, TPP negotiators are seeking to better address disputes that can arise over differences on how to handle human health and animal/plant safety issues (i.e., sanitary and phytosanitary standards [SPS]) associated with trade in agricultural products, as well as the extent to which tobacco products may be treated differently from other products owing to the health risks they present. The “Intellectual Property Rights” chapter could include provisions to prescribe how agricultural products with a “geographical indications” designation are to be treated. The “Competition” chapter could address objectives sought by Australia and New Zealand to secure disciplines on TPP countries’ use of export subsidies, export credits, and food aid.

Status: Although no deadline for concluding TPP negotiations exists *per se*, U.S. trade officials have stated a desire to conclude an agreement in 2015. A prerequisite for achieving this outcome—one cited by Japanese trade officials among others—is for Congress to pass Trade Promotion Authority (TPA). Formerly known as “fast track,” TPA is a statutory mechanism under which Congress defines negotiating objectives and consultative and notification procedures for trade agreements, and authorizes the President to enter into reciprocal trade agreements with foreign governments to address tariff and nontariff barriers. Under TPA, implementing bills for trade agreements are considered under expedited procedures, consisting of limited debate, no amendments, and an up-or-down vote. For more information see CRS Report R42694, *The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

U.S.-EU Transatlantic Trade and Investment Partnership (TTIP)⁷

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 the Transatlantic Trade and Investment Partnership (TTIP). Some of the principal objectives of U.S. agricultural interests include: expand market access for U.S. agricultural exports, address regulatory concerns regarding certain “sanitary and phytosanitary” (SPS) and related non-tariff trade measures, and address 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 TTIP 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, covering a range of trade issues. For additional information on the TTIP negotiations, see CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*, by Shayerah Ilias Akhtar and Vivian C. Jones.

In 2013, U.S. exports of agricultural products to the EU totaled \$10 billion, while U.S. imports of agricultural products from the EU totaled \$17 billion, resulting in a substantial trade deficit for the United States. USDA reports that the EU’s average agricultural tariff is 30%, well above the average U.S. agricultural tariff of 12%. Many other EU trading partners benefit from preferential tariff access to the EU given that the EU has concluded free trade agreements with more than 30 countries, with plans to negotiate agreements with a dozen more countries.

⁷ Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS (7-9588).

Regulatory Coherence—Sanitary and Phytosanitary (SPS) and Non-Tariff Barriers

SPS measures are laws, regulations, standards, and procedures that governments employ as “necessary to protect human, animal or plant life or health”⁸ from the risks associated with the spread of pests, diseases, or disease-carrying and -causing organisms or from additives, toxins, or contaminants in food, beverages, or feedstuffs. Examples include product standards, requirements for products to be produced in disease-free areas, quarantine and inspection procedures, sampling and testing requirements, residue limits for pesticides and drugs in foods, and limits on food additives. Technical barriers to trade (TBTs) cover both food and non-food traded products. TBTs in agriculture include SPS measures but also include other types of measures related to health and quality standards, testing, registration, and certification requirements, as well as packaging and labeling regulations. Both SPS and TBT measures regarding food safety and related public health protection are addressed in various multilateral trade agreements and are regularly notified to and debated within both the SPS Agreement and TBT Agreement within the WTO. In general, the goal is to negotiate provisions as part of the TTIP negotiations that “go beyond” both the SPS and the TBT agreements—referred to as “SPS-Plus” and “TBT-Plus.” For more information see CRS Report R43450, *Sanitary and Phytosanitary (SPS) and Related Non-Tariff Barriers to Agricultural Trade*, by Renée Johnson.

Major differences exist in how the United States and the EU apply SPS/TBT measures and how each regulates food safety and related public health protection. Among other administrative and technical review differences, one major difference is the EU’s application of the so-called *precautionary principle*, which remains central to the EU’s risk management policy regarding food safety and animal and plant health. In the context of the WTO, a precautionary approach allows a country to take protective action—including restricting trade of products or processes—if they believe that scientific evidence is inconclusive regarding their potential impacts on human health and the environment. In short, the EU has tended to exercise greater caution in approving the use of new technologies, citing the precautionary principle, whereas the U.S. tends to allow for the use of new technologies in absence of evidence of potential for adverse effects to health and safety. These types of regulatory differences have likely indirectly contributed to some long-standing trade disputes regarding SPS and TBT rules between the two trading blocs, including formal WTO disputes involving meat and poultry production and processing methods, such as the U.S. use of beef hormones, pathogen reduction and other treatment technologies, regulations related to bovine spongiform encephalopathy (BSE, commonly known as mad cow disease), pesticide residues on foods, and the use of biotechnology (genetically modified organisms, or GMOs). Some Members of Congress hope that the TTIP negotiations will resolve long-standing trade disputes regarding SPS rules between the two trading blocs, as well as enhance disciplines to address SPS issues and other non-tariff barriers. Given such regulatory differences and also existing non-tariff barriers between the United States and the EU, particularly regarding SPS matters, some are concerned about whether the TTIP would be able to address such concerns, or whether the agreement might exclude agricultural products altogether.

⁸ WTO Agreement on Sanitary and Phytosanitary Measures, Article 2, Basic Rights and Obligations.

Intellectual Property Rights—Geographical Indications (GIs)

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, although not exclusively, 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. In this manner, GIs can be commercially valuable. As intellectual property, GIs may also be eligible for relief from acts of infringement or unfair competition. The use of GIs might also protect consumers from deceptive or misleading labels. Examples of GIs include Parmesan cheese and Parma ham, Tuscan olive oil, Roquefort cheese, Champagne, and Irish whiskey. Other examples are Darjeeling tea, Ceylon tea, Florida oranges, Idaho potatoes, Vidalia onions, Washington State apples, and Napa Valley wines.

The use of GIs has become a contentious international trade issue, particularly for U.S. wine, cheese, and sausage makers. In general, some consider GIs to be protected intellectual property, while others consider them to be generic or semi-generic terms. Bilateral trade concerns arise when a product name recognized as a protected GI in Europe is considered a generic name in the United States. 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 European Union since only feta produced in countries or regions currently holding GI registrations may be sold commercially. 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 are in many cases also major trading partners with the United States.

Laws and regulations governing GIs differ markedly between the United States and EU, which further complicates this issue. In the EU, a series of regulations governing GIs was initiated in the early 1990s covering agricultural and food products, wine, and spirits. Currently, more than 3,000 product names are registered and protected in the EU for foods, wine, and spirits originating in EU Member States and also in other countries. In the United States, GIs are geared toward brands and trademarks and protected under the U.S. Trademark Act. Moreover, GIs are protected by the WTO’s Trade-Related Aspects of Intellectual Property Rights (TRIPS). Members of Congress have long expressed their concerns about possible GI protections being debated as part of the TTIP negotiations, as well as concerns regarding GI protections in other trade agreements that have been or are being negotiated by the EU with other countries. For more information, see CRS Report IF00016, *Geographical Indications in U.S.-EU Trade Negotiations (In Focus)*, by Renée Johnson, and CRS Report R43658, *The U.S. Wine Industry and Selected Trade Issues with the European Union*, by Renée Johnson.

Status: TTIP negotiations began in July 2013 with the goal of concluding a “comprehensive and high standard” free trade agreement (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.

U.S.-EU Beef Hormone Dispute⁹

The United States and the EU have engaged in a long-standing and acrimonious trade dispute over the EU's decision to ban hormone-treated meat. The EU ban started in the early 1980s, when it adopted restrictions 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* duty on selected food products from EU countries. Despite an ongoing series of dispute settlement proceedings and decisions by the World Trade Organization (WTO), 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 concerning the safety of hormone-treated beef. Many in the United States perceive the EU's action and the use of sanitary and phytosanitary (SPS) measures and non-tariff barriers as disguised protectionism, intended to unjustifiably restrict and discriminate against product exports from certain countries. For more information, see CRS Report R40449, *The U.S.-EU Beef Hormone Dispute*, by Renée Johnson.

Status: In May 2009, following a series of negotiations, the United States and the EU signed a memorandum of understanding (MOU), which phases in certain changes over several years. Currently, the EU has granted market access to U.S. exports of beef raised without the use of growth promotants, and the United States has suspended higher duties for imported EU products listed under the dispute. The U.S. Trade Representative (USTR) continues to monitor EU implementation of the MOU and other policies affecting market access for U.S. beef. In addition, this issue has been raised as part of the current negotiations between the United States and the EU seeking to establish a free trade area as part of the Transatlantic Trade and Investment Partnership (TTIP).¹⁰ Specifically, some Members of Congress expect the TTIP negotiations to resolve long-standing trade disputes regarding SPS rules between the two trading blocs, as well as 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 European Union to a limited quantity of beef imports that are certified as produced without the use of hormones.

U.S.-EU Dispute Over Pathogen Reduction Treatments (PRTs)¹¹

In January 2009, the outgoing Bush Administration escalated a long-running dispute with the EU over its refusal to accept imports of U.S. poultry processed with certain pathogen reduction treatments (PRTs). PRTs are antimicrobial rinses—including chlorine dioxide, acidified sodium chlorite, trisodium phosphate, and peroxyacids, among others—that have been approved by USDA for use in poultry processing to reduce the amount of microbes on meat. Meat and poultry

⁹ Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS (7-9588).

¹⁰ See CRS Report R43450, *Sanitary and Phytosanitary (SPS) and Related Non-Tariff Barriers to Agricultural Trade*, by Renée Johnson. For more general information about TTIP, see CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*.

¹¹ Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS (7-9588).

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. As PRTs are widely used in U.S. poultry processing, the EU's ban on their use effectively prohibits U.S. poultry meat from entering EU countries. For more information, see CRS Report R40199, *U.S.-EU Poultry Dispute on the Use of Pathogen Reduction Treatments (PRTs)*, by Renée Johnson.

Status: In October 2009, despite initial consultations between the United States and the EU, the USTR asked the WTO to establish a dispute settlement panel regarding the EU's restrictions on imports of U.S. poultry. The United States has asked the panel to review whether the EU's ban on the import and marketing of poultry meat and poultry meat products processed with PRTs violates the EU's WTO obligations. The USTR and the U.S. poultry industry remain actively engaged in this case. This issue also continues to be raised in ongoing trade negotiations between the United States and European Union (EU) to establish a free trade area as part of the Transatlantic Trade and Investment Partnership (TTIP). The U.S. poultry industry has indicated that it is unlikely to support a TTIP agreement that does not provide for better access to the EU of U.S. poultry products.¹²

Agricultural Biotechnology and Genetically Engineered Crops¹³

Agricultural biotechnology¹⁴ 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 their commercialization starting 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 European Union, for example, GE crops play a much more limited role. In the EU, GE crops account for only about 1% of EU crop acreage and are currently cultivated only in Spain, Portugal, the Czech Republic, Slovakia, and Romania. Also, several EU countries have banned the cultivation of GE crops in their territories or have specific rules on the trade of GE seeds. In general, EU officials have been cautious in allowing GE products to enter the EU market, and 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. To date, few GE varieties have been authorized (approved) by EU authorities for commercial cultivation. Many U.S. producers assert that EU labeling and traceability regulations and lack of timelines and transparency in the EU process for admitting GE crops and products have effectively limited certain U.S. agricultural exports to the

¹² Testimony by Bill Roenigk of the National Chicken Council to the U.S. Senate Committee on Finance, October 30, 2013; and "Free Trade with U.S.? Europe Balks at Chlorine Chicken, Hormone Beef," *Washington Post*, December 4, 2014.

¹³ Prepared by Tadlock Cowan, Analyst in Natural Resources and Rural Development, CRS (7-7600).

¹⁴ Also commonly referred to as genetically modified organisms (GMOs) or genetically engineered (GE) crops.

EU. This could become a more contentious issue in the context of the Transatlantic Trade and Investment Partnership (TTIP) negotiations. Also, in January 2015, the European Parliament voted to allow each member country to ban or approve GE crops in their respective country. This action will likely further complicate TTIP negotiations on biotechnology policy.¹⁵

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 also has 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 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.

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, the objective for both the TTIP and the Trans-Pacific Partnership (TPP) negotiations is a common framework for GE approvals, the development of labeling practices consistent with the U.S. Food and Drug Administration 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 approaches to agricultural biotechnology will likely revolve around harmonizing the U.S. and the EU regulatory regimes. To date, little movement toward a common position has been seen.

U.S. Farm Trade with Cuba¹⁶

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, and all transactions must be conducted in cash in advance or, with financing from, third countries.

With the easing of restrictions on sales of U.S. agricultural goods, Cuba has purchased about \$4.9 billion in agricultural products from 2001 through November 2014. In recent years, total U.S. agricultural exports to Cuba amounted to \$350 million in calendar year 2013, \$459.4 million in

¹⁶ Prepared by Mark A. McMinimy, Analyst in Agricultural Policy, CRS (7-2172).

2012, and \$354.3 million in 2011. U.S. farm sales to Cuba have included a variety of farm products, but the great majority of this trade has been concentrated among a handful of product categories. Leading U.S. farm product exports during the three years from 2011 to 2013 included broiler meat, which accounted for 34% of the total; corn, 27%; soybeans, 14%; soybean cake and meal, 10%; and feed ingredients, 8%.

In 2009, the U.S. International Trade Commission (USITC) issued a working paper that updated the agency's 2007 study on U.S. agricultural sales to Cuba and the effects of government financing and travel restriction on U.S. agricultural sales to Cuba. The update concluded that if U.S. restrictions on financing and travel had been lifted in 2008, U.S. agricultural exports to Cuba would have increased by between \$216 million and \$478 million and the U.S. share of Cuba's agricultural imports would have risen from 38% to between 49% and 64%.¹⁷ USITC identified wheat, rice, beef, pork, processed foods, and fish products as the U.S. agricultural products that would have benefited most from the removal of these restrictions.

Status: In December 2014, President Obama announced a major shift in U.S. policy toward Cuba aimed at moving away from a sanction-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). But the President indicated that he looks forward to engaging Congress in a debate about lifting the embargo. The LIBERTAD Act ties the lifting of the embargo to conditions in Cuba (including that a democratically elected government is in place). Lifting the overall economic embargo at this time 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.

In his December 2014 speech, the President announced steps his Administration would take to implement the new policy, of which at least two could be of interest to U.S. agriculture and agribusiness. The President identified several changes the Administration would make to U.S. embargo regulations, including permitting U.S. financial institutions to open correspondent accounts at Cuban financial institutions to facilitate authorized transactions, and expanding commercial sales/exports to Cuba's private sector by allowing the sale of certain goods and services, including agricultural equipment for small farmers and certain building materials for private residential construction. For more information see CRS Report R43024, *Cuba: U.S. Policy and Issues for Congress*, by Mark P. Sullivan, and also CRS Report IF10045, *Cuba: President Obama's New Policy Approach*, by Mark P. Sullivan.

Trade Adjustment Assistance for Farmers (TAAF)¹⁸

The origin of the Trade Adjustment Assistance for Farmers program can be traced back to a 2000 Department of Labor report 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 Trade Adjustment Assistance (TAA) workers

¹⁷ USITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions, An Update*, Office of Industries Working Paper, by Jonathan R. Coleman, No. ID-22, June 2009, available at <http://www.usitc.gov/publications/332/ID-22.pdf>.

¹⁸ Prepared by Mark A. McMinimy, Analyst in Agricultural Policy, CRS (7-2172).

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 no little or no price protection or direct payments under traditional farm subsidy programs.

Accordingly, the Trade Act of 2002 established a new Trade Adjustment Assistance for Farmers (TAAF) program.¹⁹ 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. Authority to operate the program has expired.

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 must show that imports were a significant cause for at least a 15% decline in one of three factors: the price of the commodity, 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.

Status: Section 1887 of P.L. 111-5 (the American Recovery and Reinvestment Act of 2009, approved February 17, 2009) authorized and appropriated \$90 million in each of FY2009 and FY2010, and \$22.5 million for the first quarter of FY2011 (i.e., October through December 2010).²⁰ Congress authorized funding for TAAF for FY2012, FY2013, and the first quarter of FY2014, but did not appropriate funding for the program. Authority to operate TAAF expired on December 31, 2013. If Congress decides to consider granting Trade Promotion Authority (TPA) legislation to facilitate the conclusion of the TPP and TTIP negotiations, such action could provide an opportunity for Congress to also consider reactivating the TAAF program. For more information see CRS Report R40206, *Trade Adjustment Assistance for Farmers*, by Mark A. McMinimy.

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

²⁰ 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. §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.

Country-of-Origin Labeling (COOL)²¹

On November 28, 2014, the United States appealed the findings of the World Trade Organization's (WTO) compliance panel report that had found that the revised U.S. country-of-origin labeling (COOL) regulations violated its WTO obligations by discriminating against imported livestock. In response to earlier WTO 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.²² The revised rule also prohibited the commingling of meat from imported and domestic livestock. Canada and Mexico claimed the revised rule did not bring the United States into compliance, and furthermore they said the revised rule, especially the prohibition on commingling, was more onerous than the original rule.

On November 16, 2014, Secretary of Agriculture Vilsack said that USDA analysis shows that there is no regulatory fix that will allow COOL to be consistent with the COOL law and also satisfy the WTO rulings. Vilsack said that Canada and Mexico would need to specifically say what measures would be acceptable, or Congress would have to provide, in the law, “different directions” to USDA to allow for WTO compliance.²³ COOL was addressed in the explanatory statement of the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235, Division A), enacted December 16, 2014. Congress directed USDA, in consultation with the U.S. Trade Representative, to submit to the House and Senate Appropriations Committees a report with recommendations on how to change the COOL law to make certain it “does not conflict with or is in any manner inconsistent with” U.S. WTO obligations. The report is due to the committees within 15 days of final resolution (i.e., the WTO issuing an appellate ruling on the COOL compliance report) or May 1, 2015, whichever comes first. For further details on the case, see CRS Report RS22955, *Country-of-Origin Labeling for Foods and the WTO Trade Dispute on Meat Labeling*, by Joel L. Greene.

Status: Reportedly, the Appellate Body will hear the case in February, and its report would likely be released in late spring.²⁴ If the Appellate Body upholds the compliance report, Canada and Mexico will request that the WTO authorize them to suspend concessions with the United States, that is retaliate. Retaliation would be in the form of raising tariffs on U.S. products that they import. Canada has already published a list of U.S. products that could be potential targets of retaliation, covering food and agricultural goods, as well as some manufactured goods.²⁵ Mexico has not yet released a list. Retaliation must not exceed the value of impairment, or losses, suffered by Canada and Mexico due to COOL. In this case, the damage is commonly estimated at around \$2 billion.²⁶

²¹ Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS (7-9877).

²² 78 *Federal Register* 31367 (May 24, 2013). The revised COOL rule.

²³ Johnston, T., “No ‘Regulatory Fix’ for COOL: Vilsack,” *Meetingplace*, November 19, 2014. Audio recording (at 10:21) of Secretary Vilsack’s press conference at the National Association of Farm Broadcasting convention is available at *AgWired*, <http://agwired.com/2014/11/16/secretary-vilsack-praises-farm-broadcasters/>.

²⁴ Clayton, C., “No Easy Fix for COOL,” *DTN/The Progressive Farmer*, January 12, 2015.

²⁵ Department of Finance, “Notice Seeking Comments on Possible Trade Retaliation Action Against the United States in Response to that Country’s Failure to Comply with the World Trade Organization Ruling on Certain Country of Origin Labelling Requirements,” *Canada Gazette*, Vol. 147, No. 24, June 15, 2013, <http://gazette.gc.ca/rp-pr/p1/2013/2013-06-15/html/notice-avis-eng.html#d115>.

²⁶ Canada has estimated annual losses of \$639 million for cattle and \$500 million for hogs. Mexico has not issued an estimate, but some analysts believe it could approach \$1 billion. A total damage estimate of \$1 billion-\$2 billion is (continued...)

The United States may challenge the valuation and request that the value be set through arbitration. The arbitrator's role is to determine if retaliation is equivalent to impairment. The WTO arbitrator would have 60 days to issue a final decision. Once the arbitrator's decision is released, Canada and Mexico could implement the decision. Retaliation is terminated once the United States brings COOL into compliance or the parties reach an agreement that resolves the case.

Imports of Chicken from China²⁷

In August 2013, the U.S. Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) confirmed that China's poultry processing system was equivalent to the U.S. poultry inspection system.²⁸ This determination allows China to export processed (cooked) poultry meat that is sourced from raw poultry from the United States, or from Canada and Chile, the two countries approved to send raw poultry to the United States. However, FSIS has not granted equivalency to China's poultry slaughter inspection system; thus raw poultry from China is prevented from being imported into the United States. Granting equivalency to China in August 2013 was the culmination of a process that began in 2005, when China requested that USDA evaluate its poultry inspection system. The process stopped in FY2006, when Congress prohibited FSIS from expending funds to evaluate China's poultry inspection system, and resumed in FY2010.

The possibility that the United States could import poultry meat processed in China has alarmed many because of concerns about lax food safety enforcement in China. Testimony presented during a Congressional-Executive Commission on China hearing highlighted China's weak track record on food safety.²⁹ Also, the discovery last summer that a Chinese meat processor, which supplied meat products to McDonald's, KFC, and other foreign food establishments in China, was using expired meat in products provided to the food establishments only heightened concern about China's ability to supply safe meat.

Status: In response to concern about China's food safety, the FY2015 appropriations act (P.L. 113-235) prohibits USDA from using any funds to purchase Chinese processed poultry products for feeding programs, including the school lunch and school breakfast programs.³⁰ In November 2014, China notified FSIS of four processing plants that were eligible to ship product to the United States. There have been no reports of shipments of processed Chinese chicken to the United States so far. At this writing, the official U.S. trade data are only available through November 2014.

(...continued)

probably reasonable.

²⁷ Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS (7-9877).

²⁸ Equivalency determinations are authorized under the Poultry Products Inspection Act (21 U.S.C. §466).

²⁹ 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>.

³⁰ P.L. 113-235, Division A, Section 736.

Avian Influenza (AI) Bans on U.S. Poultry Exports³¹

In December 2014, USDA confirmed that H5N8, a strain of high pathogenic avian influenza (HPAI) had been found in wild birds in the state of Washington and in a backyard flock of guinea fowl and chickens in Oregon. In addition, H5N2 HPAI was confirmed in wild birds in northern California and Washington. Since the discovery, more than 30 countries have imposed some type of ban on U.S. poultry exports, even though no HPAI has been found in commercial poultry flocks or in areas close to major commercial poultry production. Members of the World Animal Health Organization (OIE) are obligated to report outbreaks of HPAI, but the OIE guidelines do not recommend export bans for either HPAI or low pathogenic AI (LPAI); rather, they allow for exports from disease-free regions within an affected country.³² Since the discovery of HPAI, some countries, such as Japan and Canada, have imposed bans on the exports of poultry from Washington and Oregon. Other markets, such as China, South Korea, Russia (the Russian government continues to ban the import of U.S. poultry meat), the EU, and Thailand, have imposed blanket bans on imports of all U.S. poultry.

Status: Through November 2014, the United States had exported 6.7 billion pounds of broiler meat, valued at almost \$3.8 billion, and China and South Korea are leading markets for those U.S. poultry exports. Any ongoing bans could prove to be disruptive for the U.S. poultry industry. In the past, the U.S. poultry industry has been confronted with export bans with no scientific basis, and such bans can become long-running trade disputes. For example, the United States filed a WTO dispute settlement case against India because of its ban on U.S. poultry imports due to a LPAI outbreak in 2006. In October 2014, the WTO found that India's ban violated its WTO obligations. WTO's Dispute Settlement Body is expected to adopt the panel report on January 26, 2015, confirming India's violation. However, there is concern within the U.S. poultry industry that India could use the recent HPAI outbreaks to continue export bans and delay implementation of its WTO obligations in poultry trade. USDA and the USTR will be working with trading partners to encourage them to follow international guidelines for AI outbreaks.

Fresh Beef Imports from Brazil and Argentina³³

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.³⁴ In August 2014, APHIS also proposed a rule to allow fresh beef imports from Patagonia and Northern Argentina.³⁵ USDA's risk assessments have 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 deep concern about, and 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

³¹ Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS (7-9877).

³² OIE, *Infection with Avian Influenza Viruses*, Terrestrial Code, Chapter 10.4, http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_avian_influenza_viruses.htm.

³³ Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS (7-9877).

³⁴ 78 *Federal Register* 77370 (December 23, 2013).

³⁵ 79 *Federal Register* 51508 (August 29, 2014) and 79 *Federal Register* 51528 (August 29, 2014).

livestock industry. The Department of Homeland Security estimates the cost of an FMD outbreak in the United States could exceed \$50 billion.³⁶

Status: The Office of Management and Budget's Unified Agenda indicates that the proposed rule for Brazil could be finalized in 2015. Comments for the proposed rule for Argentina are still being reviewed by USDA.

Ractopamine Trade Restrictions³⁷

Ractopamine, an animal drug that increases animal weight gain and meat yield, is approved by the Food and Drug Administration for use in U.S. cattle, hog, and turkey production. It also is approved for use in 25 countries. In 2012, the Codex Alimentarius (Codex), the international food standards organization that sets guidelines to protect public health and ensure fair practices in the food trade, set maximum residue levels (MRLs) 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, ignoring the MRL standards established by Codex. In its "2014 Report on Sanitary and Phytosanitary Measures," the USTR highlights several major markets, including China, the EU, Russia, and Taiwan, that have restricted U.S. meat exports produced with ractopamine. These four markets accounted for about 10% of U.S. pork shipments and 7% of U.S. beef in 2014, percentages that have been higher in recent years. 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.

Generalized System of Preferences (GSP)³⁸

The Generalized System of Preferences (GSP) provides duty-free tariff treatment for certain products from designated developing countries. Agricultural imports under GSP totaled \$2.5 billion in 2012, nearly 13% of the value of all U.S. GSP imports. Leading agricultural imports include processed foods and food processing inputs, sugar and sugar confectionery, cocoa, processed and fresh fruits and vegetables, beverages and drinking waters, olive oil, processed meats, and miscellaneous food preparations, as well as inputs for further processing. The majority of these imports are from Thailand, Brazil, India, Indonesia, and Turkey, which combined account for nearly two-thirds of total agricultural GSP imports.

The GSP expired as of July 2013. The 113th Congress introduced but did not enact legislation to renew GSP. In the past few years, Congress has extended GSP through a series of short-term extensions. On previous occasions, Congress has renewed GSP retroactively, rather than prior to expiration. In recent years, however, GSP renewal has been somewhat controversial. Some in Congress have continued to call for changes to the program that could limit GSP benefits to certain countries, among other changes. In May 2014, President Obama notified Congress that he intended to graduate Russia from the program, and later officially terminated Russia's GSP status

³⁶ 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>.

³⁷ Prepared by Joel L. Greene, Analyst in Agricultural Policy, CRS (7-9877).

³⁸ Prepared by Renée Johnson, Specialist in Agricultural Policy, CRS (7-9588).

in October 2014. Previously, in March 2012, President Obama suspended GSP benefits for Argentina. Opinion within the U.S. agriculture industry is mixed, reflecting both support for and opposition to the current program. For additional background, see CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by Vivian C. Jones.

Status: GSP most recently was extended until July 31, 2013 (P.L. 112-40) and subsequently has not been extended. Renewal of the program may continue to be a legislative issue in the 114th Congress.

Doha Round Agriculture Negotiations³⁹

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 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.⁴⁰ 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*, by Randy Schnepf.

Status: By 2009, outstanding differences 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

³⁹ Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

⁴⁰ 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.

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 Agreement⁴¹

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 provide positive feedback to 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 Doha Round, and asks for greater transparency and restraint in their use prior to their final elimination; (2) tariff rate quota (TRQ) administration—manages 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 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*, by Randy Schnepf.

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.

⁴¹ Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

2014 Farm Bill and WTO Compliance⁴²

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.⁴³ 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*, by Randy Schnepf.

Status: Many of the new programs authorized by the 2014 farm bill have yet to be fully implemented; thus producer participation is uncertain, while potential distortions have yet to be measured and will likely hinge on future market conditions. Most studies suggest that, for U.S. program spending to exceed the \$19.1 billion 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.⁴⁴ Furthermore, 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.

U.S.-Mexico Sugar Trade⁴⁵

In December 2014, the U.S. Department of Commerce (DOC) signed agreements with the Government of Mexico and with Mexican sugar producers and exporters that fundamentally changes the ground rules of trade in sugar between the two countries. The so-called "suspension agreements" brought a halt to ongoing countervailing duty (CVD) and antidumping (AD) investigations into exports of Mexican sugar to the United States. Preliminary findings by U.S. government agencies concluded that Mexican sugar was being subsidized by the government of Mexico and was being sold into the U.S. market at less than fair value.

The suspension agreements contain a formula that limits Mexico's sugar exports to the United States to the residual equal to the total of U.S. needs for domestic human use in a given marketing

⁴² Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

⁴³ See CRS Report RS20840, *Agriculture in the WTO: Rules and Limits on Domestic Support*, by Randy Schnepf.

⁴⁴ See CRS Report RS22522, *Potential Challenges to U.S. Farm Subsidies in the WTO: A Brief Overview*, by Randy Schnepf.

⁴⁵ Prepared by Mark A. McMinimy, Analyst in Agricultural Policy, CRS (7-2172).

year less U.S. production and imports from tariff-rate quota (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. Product coverage under the agreements includes most raw and refined sugar products, but excludes sugar-containing beverages and processed foods and some specialty sugars. This new regime ushered in by the suspension agreement represents a major course adjustment in U.S.-Mexico sugar trade.

From 2008 until December 2014, Mexican sugar exporters had occupied a uniquely favored position among sugar exporters supplying the U.S. market because under the North American Free Trade Agreement (NAFTA) Mexico was accorded unlimited, duty-free access to the U.S. market. During the three most recently completed marketing years from 2011/2012 to 2013/2014, imports of Mexican sugar averaged 13% of the total of U.S. sugar production plus imports, ranging from a low of 9% to a high of 17% over this same period. For more information see CRS In Focus Report IF10034, *New Era Dawns in U.S.-Mexico Sugar Trade*, by Mark A. McMinimy.

Status: The suspension agreements have no termination date, but signatories may terminate them at any time. The suspended CVD and AD investigations are subject to a review after five years. The suspended investigations may be resumed if a signatory to the agreements, or an interested party such as a U.S. sugar refiner, requests such within a 20-day window of public notice of the agreements. On January 8, 2015 two U.S. refiners, AmCane Sugar LLC and Imperial Sugar Company, petitioned the U.S. International Trade Commission (USITC) to launch an investigation on the basis that the suspension agreements fail to completely remove the injury to the U.S. industry caused by Mexican sugar. The ITC is required to make a determination on the sugar refiners' petitions within 75 days of the filing date, with the results determining whether the CVD and AD investigations would be resumed. On January 16, 2015, both companies filed petitions requesting the DOC to continue the CVD and AD investigations that were halted with the signing of the suspension agreements. A decision on these requests is expected prior to March 24, 2015.

U.S.-India Agricultural Trade Issues⁴⁶

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 commodities from farmers at above-market prices from domestic markets to distribute to poor populations—from

⁴⁶ Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS.

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.

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.

U.S.-Brazil WTO Cotton Dispute Settlement⁴⁷

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 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 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 countries 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

⁴⁷ Prepared by Randy Schnepf, Specialist in Agricultural Policy, CRS. For more details, see CRS Report R43336, *The WTO Brazil-U.S. Cotton Case*, by Randy Schnepf.

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*, by Randy Schnepf.

Status: The inability of the WTO to move forward with its multilateral trade negotiations (i.e., the Doha Round) 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.

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