

Issue Brief for Congress

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Agricultural Trade Issues in the 107th Congress

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Agricultural Trade Issues in the 107th Congress

SUMMARY

The 107th Congress is considering trade issues with implications for the U.S. agricultural sector. Trade in agricultural commodities and food products affects farm income and rural employment, and it also generates economic activity beyond the farm gate. With agricultural export sales the equivalent of one-quarter of farm income, some policymakers view U.S. efforts to develop market opportunities overseas as vital to the sector's financial health. Decisions taken by the Bush Administration, and actions taken by Congress, thus will affect the outlook for agricultural trade.

U.S. agricultural exports are forecast to improve in FY2002, but the world economic slowdown has made the outlook somewhat uncertain. Agricultural groups and their supporters in Congress believe that long-term prosperity depends partly on U.S. trade policies that: (1) aggressively reduce foreign-imposed barriers to U.S. farm products, (2) hold other countries accountable for commitments they have already made in existing trade agreements, (3) resolve festering disputes with major trading partners, and (4) fully use U.S. Department of Agriculture (USDA) export and food aid programs. Other groups, for various reasons, have pressed for restrictions on agricultural imports.

The House in early December 2001 narrowly passed, and the Senate is considering, legislation to grant the President fast track, or trade promotion authority (TPA), to negotiate future trade agreements. Many, but not all, commodity and food industry groups favor such action, arguing it would give U.S. trade negotiators greater credibility and facilitate the passage of legislation to implement future trade agreements. These include nego-

tiations on liberalizing trade in agriculture and other economic sectors in the World Trade Organization (WTO), in the hemispheric Free Trade Area of the Americas (FTAA), and in the free trade agreements with Chile and Singapore.

Following agreement on terms of China's accession to the WTO, Congress has focused on ensuring that China adheres to its commitments to open its market to U.S. agricultural products. Also, Congress is monitoring Administration efforts to resolve continuing trade disputes with the European Union (EU), and the strategies being pursued by the Administration in WTO and FTAA negotiations. They are also engaged with negotiators to ensure Administration officials consult with them on agricultural provisions as comprehensive negotiations proceed.

Congress also is following how the Administration implements trade laws passed in recent years. Members opposed to tight rules on food sales to Cuba (now permitted only under narrow conditions) have introduced bills to ease them. Farm bill conferees, however, rejected a Senate proposal to permit private financing of such sales. Other measures address concerns about the treatment of genetically engineered crops and food products in international trade.

Congress has approved FY2002 funding levels for USDA programs that assist and facilitate export shipments and food aid. The FY2003 appropriations process is now underway. House and Senate conferees have reached agreement on an omnibus farm bill whose trade title amends and extends export and food aid programs through FY2007.

After growing rapidly in the 1970s, U.S. agricultural exports reached a high of \$43.8 billion in FY1981, but then declined by 40% to \$26.3 billion by FY1986. By FY1996, agricultural exports had recovered and reached a new peak of nearly \$60 billion, but then began a decline that dipped to \$49 billion by FY1999. Main reasons for the decline were continuing financial turmoil in East and Southeast Asian markets, and increased competition for corn, wheat, and soybeans in global markets. Exports began to recover, rising to \$50.9 billion for FY2000, and an estimated \$53 billion in FY2001. USDA now forecasts FY2002 export value at \$54.5 billion.

The commodity composition of U.S. agricultural exports has changed over time. Since FY1991, bulk commodities (grains, oilseeds, and cotton) have accounted for less than total non-bulk exports (intermediate products such as wheat flour, feedstuffs, and vegetable oils and consumer-ready products such as fruits, nuts, meats, and processed foods). In FY2001, high value agricultural exports accounted for 65% of the value of total agricultural exports.

Many variables interact to determine the level of U.S. agricultural exports: income, population growth, and tastes and preferences in foreign markets; U.S. and foreign production and prices; and exchange rates. U.S. agricultural export and food aid programs, domestic farm policies that affect output and price, and trade agreements with other countries also influence the level of U.S. agricultural exports.

U.S. Agricultural Imports

The United States is also a major importer of agricultural commodities and food products. USDA classifies these as either non-competitive or competitive imports. Non-competitive products include primarily tropical products (coffee, cocoa, bananas, rubber, and spices) that are not produced domestically. Imports that compete against domestic output include red meats (primarily beef), fruits and juices, vegetables and preparations, wine and beer, certain grains and feeds, certain oilseeds, sugar and related products, and dairy products. USDA estimates the import share of all U.S. food consumption was 9.1% in 1999. Agricultural imports have risen 72% over the last decade, from \$22.7 billion in FY1991 to \$39 billion in FY2001. Factors contributing to this growth in import demand include the extended U.S. economic expansion during this period, low commodity prices, the strong U.S. dollar which made imports cheaper, and the effects of trade agreements. Non-competitive imports (about \$6.3 billion) accounted for 16% of all agricultural imports in FY2001. The value of competitive imports was nearly \$33 billion (84% of the total).

The U.S. average tariff on agricultural imports (12%) is much lower than the global average tariff (62%) imposed on similar imports. However, the United States along with other developed countries restricts the entry of "import-sensitive" products to protect certain domestic producers. U.S. tariff-rate quotas allow zero or low duty access for specified amounts of foreign beef, sugar, peanuts, and cotton, among other products. Imports above the applicable quota may enter, but face prohibitively high tariffs. This usually makes such imports uncompetitive in the U.S. market. Safeguards (involving the temporary use of higher tariffs and/or quotas) allow producers of an affected commodity or product sector additional time to adjust to increased import competition. In recent years, the United States has imposed safeguards on imports of lamb meat and wheat gluten, both of which were successfully challenged in WTO dispute settlement and were not renewed after 3 years.

Though a large share of agricultural imports compete against U.S. products, they do nevertheless generate economic activity in the U.S. economy. These imports provide

additional income to, and increased employment at, businesses involved in food processing and in providing transportation, trade, and related services.

(For more information on both agricultural exports and imports, see *U.S. Agricultural Trade: Trends, Composition, Direction, and Policy*, CRS Report 98-253.)

Overview of Policy Debate

Although farm groups and agribusiness recognize that many world economic, political, and weather factors influence the level of U.S. agricultural exports, many believe that the agricultural sector's future prosperity also depends upon U.S. trade policies that: (1) aggressively reduce foreign-imposed barriers to U.S. farm products, (2) hold other countries accountable for commitments they have already made in existing trade agreements, (3) resolve festering disputes with major trading partners, and (4) fully use U.S. Department of Agriculture (USDA) export and food aid programs.

A few U.S. farm groups point out that, by maintaining barriers to U.S. imports and their own high export subsidies and internal farm supports, not all countries have fully honored existing trade agreements. In fact, some of these groups (particularly representing import-sensitive commodities) have pressed for more restrictions on foreign farm and food imports.

Fast Track or Trade Promotion Authority

Many agricultural and food industry interests are among the supporters of new "fast track" or trade promotion authority (TPA). Fast track or TPA refers to the special procedures Congress has adopted in the past for considering legislation to implement trade agreements with foreign countries. Under the fast track/TPA concept, the President consults regularly with Congress during the negotiating phase. Once an implementing bill that reflects a trade agreement's provisions is submitted, the time for debate is limited, and only an up or down vote on the bill, with no amendments, is permitted. Fast track authority expired in 1994, and a series of efforts to revive it failed in the 105th Congress and were not vigorously pursued in the 106th, in part because of opposition from those advocating the inclusion of protections for labor and the environment in future trade agreements.

Some have suggested that the President should be armed with TPA, or at least the assurance that Congress will enact it, as negotiations of the Free Trade Area of the Americas (FTAA) intensify. Others point to TPA as critical to ongoing World Trade Organization (WTO) negotiations on agriculture and in the more comprehensive negotiating round, the Doha Development Agenda (DDA), launched in Doha, Qatar in November 2001 (see below).

Much of the agricultural community has supported giving the President TPA on the grounds that it facilitates negotiations to open foreign markets to U.S. agricultural products. However, some agricultural groups argue that fast track stifled their past attempts to avert the potentially negative impacts of certain agricultural imports on U.S. producers. For example, U.S. sugar, peanut, dairy, and some wheat, fruit, and vegetable producers argue that imports under terms of both the Uruguay Round Agreement on Agriculture (URAA) and North American Free Trade Agreement (NAFTA) undermine significantly the domestic market for their products.

While the Administration and leading trade-minded lawmakers have made fast track/TPA a top trade priority for the 107th Congress, the debate has been protracted and contentious. On December 6, 2001, the House passed a TPA bill (H.R. 3005, the "Bipartisan Trade Promotion Authority Act of 2001") largely along party lines by a vote of 215-214. An earlier version had been approved by the House Ways and Means Committee on October 9, 2001. The Senate Finance Committee approved its version of H.R. 3005 on December 18, 2001. On April 26, 2002, the Senate began consideration of the Andean Trade Preferences Act which is expected to be the vehicle for consideration of H.R. 3005.

During the debate over TPA, those seeking agriculture's renewed support have sought to demonstrate how past agreements have benefitted the sector overall. And, as in the past, agricultural groups have pressed for language in a TPA bill that recognizes their industry's "special status" and/or makes special concessions to them. For example, the House-passed bill enumerates explicit negotiating objectives and consultation requirements for agriculture, including special consultation procedures that could affect tariff reduction commitments on some 200 "import sensitive" agricultural and food commodities. In addition, the Senate Majority Leader has linked consideration of TPA with a separate bill renewing and expanding Trade Adjustment Assistance programs (S. 1209, also approved in December by the Finance Committee). S. 1209 includes a new provision authorizing agricultural groups to petition the Secretary of Agriculture to be certified as eligible for TAA. If the Secretary determines that imports "contributed importantly" to lower than average prices for the affected commodity, producers could receive prescribed cash payments of up to \$10,000 per year each, with total national payments capped at \$90 million. (For more information, see *Fast-Track Trade Negotiating Authority* in the CRS Electronic Trade Briefing Book, and *Agriculture and Fast Track Trade Legislation*, CRS Report 97-817.)

Trade Agreements

Provisions affecting agricultural trade are found in bilateral trade agreements approved to date by the 107th Congress and in both bilateral and regional agreements being negotiated. Particular attention focuses on how U.S. negotiators will deal with agricultural trade issues in negotiations for a U.S.-Chile free trade agreement and for a hemispheric-wide FTAA. While some commodity groups welcome the market openings these agreements are expected to provide, producers of import-sensitive commodities will carefully monitor and seek to shape those provisions that affect them. These producers will be most concerned about what negotiators include as rules of origin, safeguards against import surges, the transition periods agreed upon for market access, and the terms under which sanitary and phytosanitary rules are applied. In the short term, observers note that the pace of negotiations on current and prospective trade agreements involves a balancing act between Administration efforts to secure trade promotion authority and at the same time not alienate Members of Congress that represent agricultural interests, particularly import-sensitive products.

Bilateral Trade Agreements

The Clinton Administration in 2000 concluded trade agreements with Jordan and Vietnam. In 2001, the 107th Congress approved, and President Bush signed, measures to put them into effect (P.L.107-43 – H.R. 2603 – for Jordan; P.L. 107- 52 – H.J.Res. 51 – for Vietnam). Negotiations on free trade agreements (FTAs) continue with Singapore and Chile. President Bush on January 16, 2002, announced the United States will explore an FTA with Central America in order to promote economic and social growth in the region. On April 23, 2002, the President announced that the United States will seek an FTA with Morocco. Other countries mentioned by U.S. trade officials in recent months as FTA candidates include Australia, Egypt, and South Africa and neighboring African nations. An FTA proposed last year by Australia and New Zealand met with considerable opposition from U.S. agricultural interests.

Chile. The pace of liberalizing agricultural trade between the United States and Chile has proven to be a difficult issue in negotiating an FTA. The United States over the last decade has recorded a growing agricultural trade deficit with this major trading partner in Latin America. In 2001, U.S. agricultural exports to Chile totaled \$100 million; leading products sold were corn gluten meal, wine making ingredients, snack foods, planting seeds, and pet foods. Chile's exports of agricultural products to the U.S. market were much higher, valued just over \$1.0 billion. Sales of fresh fruit (primarily table grapes), wine, fruit juices, and planting seeds accounted for 90% of this total.

U.S. negotiators are pressing for increased market access for commodities (wheat, wheat flour, edible oils) now protected by Chile's price-band system. Price bands serve to insulate producers and processors when the world price for any commodity falls below a calculated reference price. Protection is provided the domestic sector by levying a variable charge on the imported commodity, which when added to the lower world price, raises the importer's cost to the reference price target. The future of Chile's price band system and its effect on the negotiations is uncertain in view of a recent WTO dispute panel ruling that it violates WTO trade rules. Chile is expected to appeal the ruling, which will not be formalized until early May.

Chile in turn is expected to seek a quick reduction in U.S. tariffs on the major farm products shipped to this market and in changes in how anti-dumping and countervailing rules are applied. Chile has repeatedly expressed concerns about the financial impact invoking these rules has had on Chilean producers of salmon, grapes, and raspberries. That is because agricultural exports – representing one-third of Chile's total exports to the U.S. market – are important to its economy. Others view a successful outcome of these FTA negotiations as a model that could be followed to conclude the FTAA (see below).

Detailed talks on eliminating tariffs on agricultural products (e.g., determining which products fall in which tariff reduction category, and the timetables that apply to each) began in mid-September 2001. Subsequent negotiating sessions have included discussions on which products should be placed in which tariff reduction category, and explored the use of transitional tariff-rate quotas for the more import-sensitive agricultural commodities. Questions of coverage, product exclusions, and phase-out periods (particularly with sensitive products) in tariff negotiations are still open. The United States is reportedly seeking a "special agricultural safeguard" in order to "manage access" of Chilean fruit and vegetable products to the U.S. market during the transition to a free trade area. Chile reportedly would drop demands that the United States eliminate domestic agricultural support, but wants in exchange to continue its price band system for sensitive commodities including wheat, wheat

flour, sugar and vegetable oil. With some U.S. exporters having faced sanitary and phytosanitary obstacles in recent years in selling pork, beef, dairy, and poultry products and certain fruit to the Chilean market, the United States is expected to press for language that ensures such matters in the future are addressed using WTO rules and procedures. Negotiators from both sides have stated that disagreements on the agreement's prospective agricultural provisions could be the most difficult to resolve, and acknowledge this likely will not occur until the last minute.

Negotiators met April 9-12 in Santiago and discussed market access for agricultural and industrial products, among other issues. Reportedly, progress was made in determining the phase-in periods for tariff reductions, including possible timetables for reducing tariffs on the most sensitive imports, which include a number of agricultural products. Progress was also reported following an April 3-4 meeting on sanitary and phytosanitary issues. Reportedly, the United States and Chile would set up a framework within which safety certification of poultry, meat, and dairy products would be addressed as well as conditions for marketing U.S. beef in Chile. The 12th (and possibly last) negotiating round is scheduled for early May.

H.R. 3005 (TPA) would apply to congressional consideration of a U.S.-Chile FTA. Other bills introduced in the 107th Congress (S. 138 and S. 586) authorize negotiations for a bilateral trade agreement with Chile or for the accession of Chile to NAFTA, and provide for TPA consideration of legislation to implement an agreement. (For background, see *The U.S.- Chile Free Trade Agreement in the CRS Electronic Trade Briefing Book.*)

Singapore. The United States runs an agricultural trade surplus with Singapore. U.S. agricultural and food exports in 2001 totaled \$228 million, compared to \$45 million in imports. Top agricultural exports were fruit and related products, vegetables and related products, cooking oils, snack foods, and poultry meat. Purchases of cocoa paste and butter, snack foods, rubber and related products, and spices from Singapore accounted for 57% of agricultural imports. Being primarily urban, Singapore produces little of its own food. Reflecting this, tariffs on imported foodstuffs are close to zero. Because this city state is a major shipping hub, some U.S. commodity groups seek the inclusion of rules of origin in the FTA to prohibit duty-free treatment of food products transhipped through Singapore from neighboring agricultural producing countries in Southeast Asia. Negotiators held their eighth round of talks the week of April 22 and reportedly have made progress on rules of origin, but still are working on their market access offers. USTR has indicated that negotiations should conclude before the end of the year. (For background, see *Singapore-U.S. Free Trade Agreement*, CRS Report RS20755, or a summary similarly titled in the CRS Electronic Trade Briefing Book.)

Free Trade Area of the Americas (FTAA)

President Bush has stated that he places a high priority on negotiating an agreement to completely remove trade barriers within the Western Hemisphere. The FTAA is intended to go beyond NAFTA to encompass all trade among all of the region's countries, and eventually supersede the panoply of current regional FTAs and those that are being negotiated. Crafting the FTAA rules for liberalizing agricultural trade and then negotiating the fine details between the region's 34 countries by the target date of 2005 are expected to be difficult and contentious. Some Latin American countries, particularly Brazil, are seeking increased access to the U.S. market for competitive products such as beef, citrus, sugar, and vegetables. U.S. commodity groups and agribusiness seek additional openings for their products in the rapidly growing Latin American market as well as legal assurances that all

countries will abide by sanitary and phytosanitary rules with respect to agricultural imports. The Office of the U.S. Trade Representative (USTR) on January 17, 2001, issued summaries of the U.S. positions on the objectives and rules to be followed to negotiate FTAA's agricultural provisions.

At the third Summit of the Americas in April 2001, hemispheric leaders, including President Bush, assessed progress to date and ratified the dates for completing FTAA negotiations and making the agreement effective. Leaders accepted May 15, 2002 as the deadline for initiating product and sector-specific negotiations, and agreed to conclude all FTAA negotiations by January 2005. Their goal is to have the final agreement take effect no later than December 2005. Leaders committed also to make the trade negotiation process more transparent and accessible. Toward this end, a draft "bracketed" FTAA text (a document reflecting all countries' positions in all negotiating areas) was released on July 3. The draft agriculture chapter contains proposals for accelerated tariff elimination on agricultural products, special treatment of the agricultural sectors of the smaller economies, disciplines on state trading enterprises to begin at the start of the tariff elimination process, and disciplines for monitoring food aid. The draft includes areas of disagreement on defining and eliminating agricultural export subsidies, and on the nature and scope of agricultural safeguards to be permitted to protect against import surges. Last-minute provisions added to the House-passed trade promotion measure (H.R. 3005) that address the concerns of import-sensitive U.S. agricultural producers (e.g., citrus and sugar, among others) in future trade negotiations prompted Brazil's President and the country's lawmakers in mid-December 2001 to object to these stipulations and urge they be dropped. The pace and substance of how key agricultural trade issues are handled in the WTO context will also influence the way they are addressed by FTAA negotiators. (For more information, see *Agricultural Trade in the Free Trade Area of the Americas*, CRS Report RL30935; and *A Free Trade Area of the Americas in the CRS Electronic Trade Briefing Book*).

Agricultural Negotiations in the World Trade Organization (WTO)

At the World Trade Organization (WTO) Fourth Ministerial Conference in Doha, Qatar, November 9-14, 2001, trade ministers agreed on a declaration to begin a new round of multilateral trade negotiations (MTNs), including negotiations on agriculture. This new round, because of its emphasis on integrating developing countries into the world trading system, will be called the Doha Development Agenda (DDA). The Doha Ministerial Declaration gives new impetus to sectoral negotiations on agriculture that have been underway in the WTO for some time. The Doha declaration effectively incorporates agriculture into a comprehensive trade round and gives the sector an agreed negotiating mandate. These negotiations are part of the so-called WTO's "built-in agenda" and are intended to continue the process of "substantial progressive reductions in support and protection" of agriculture (Article 20 of the 1994 WTO Uruguay Round Agreement on Agriculture (URAA)) begun in 1986. While the URAA established new and strengthened rules for the conduct of agricultural trade, the new round will focus on measures to expand market access for agricultural products and further reduce agricultural export subsidies and trade-distorting domestic support.

For agriculture, the Doha Ministerial Declaration states that "*building on the work carried out to date* (in the sectoral negotiations)" and "*without prejudging the outcome of the negotiations, we commit ourselves to comprehensive negotiations aimed at: substantial*

improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” The Declaration also provides that *“special and differential treatment for developing countries shall be an integral part of all elements of the negotiations.”* The Declaration takes note of *“non-trade concerns reflected in negotiating proposals of Members”* and confirms that *“non-trade concerns (discussed below) will be taken into account”* in the negotiations.

Prior to Doha, the sectoral negotiations on agriculture had not progressed beyond identifying and discussing negotiating issues and had no deadline. Even with agreement on a mandate, however, there remain the difficult tasks of deciding on “modalities” (e.g., formulas for reducing tariffs or timetables for reducing export subsidies) for achieving the mandated objectives and of developing individual country schedules, or lists, of commitments. Member countries will differ in their choice of modalities. For example, some will want to reduce high tariffs more rapidly than lower tariffs, while others will want to protect “sensitive” products by slowing the pace of tariff reduction. Similarly, some will want rapid reductions in export or domestic subsidies while others will want longer timetables for reductions. The WTO Agriculture Committee has set out a work program which calls for establishing negotiating modalities for achieving new reduction commitments over the period March 26, 2002 through March 31, 2003. The deadline for concluding the negotiations in the DDA, including those on agriculture, is January 1, 2005.

The United States, the Cairns Group of agricultural exporting countries,¹ the European Union (EU), Japan, and several developing countries submitted negotiating proposals during the first phase. The U.S. proposal calls for the elimination of agricultural export subsidies by a fixed date; substantial reductions in tariffs and increases in tariff-rate quotas on agricultural imports; disciplines on state trading enterprises; and reductions in amber box spending (trade distorting domestic support) based on the same fixed percentage of each country’s total agricultural production value – with the objective of eventually making all countries’ domestic support levels comparable in relative terms. The Cairns Group also calls for deep cuts in domestic support and the elimination of export subsidies. The EU, Japan, and Korea place greater emphasis on so-called non-trade concerns like protecting the environment and rural development. The EU has conditioned its support for further export subsidy reduction on including export credits and large U.S. food aid programs on the negotiating agenda. Developing countries that are not members of the Cairns Group call for rapid dismantling of trade barriers of developed countries coupled with exemptions for domestic support deemed essential for economic development.

Most U.S. agricultural interest groups are pleased that agriculture has been folded into a more comprehensive multilateral round of trade negotiations. These groups believe that trade-offs possible in a more comprehensive negotiation would result in improved market prospects for U.S. agricultural exports. Others, such as winter vegetable producers or wheat farmers in states that border Canada, who feel disadvantaged by previous trade agreements (i.e., NAFTA) are not enthusiastic about U.S. participation in a new round.

While the Administration is claiming substantial success in terms of the negotiating mandate for agriculture in the new round, the House has passed, and the Senate is poised to

¹ The 18 members of the Cairns group are: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay. Negotiating proposals submitted by individual countries, and background papers on negotiating issues prepared by the WTO Secretariat, can be found at [http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm].

enact, a farm bill to replace the 1996 Federal Agricultural Improvement and Reform, or FAIR, Act) that, some say, could raise domestic support above U.S. commitments to reduce such spending and also undermine the U.S. position in the new round of multilateral trade negotiations. However, the conference report on the farm bill stipulates that the Secretary shall, to the maximum extent possible, make adjustments in domestic support to ensure that it does not exceed levels allowable under the Uruguay Round Agreement on Agriculture. (For more information, see *Agriculture in WTO Negotiations*, CRS Report RS21085, or a summary so titled in the CRS Electronic Trade Briefing Book, and *Farm Support Programs and World Trade Commitments*, CRS Report RL30612.)

U.S. - European Union Agricultural Trade Relations

The United States and the EU, the world's leading exporters of agricultural products, also are significant markets for each other's agricultural exports. Among factors affecting trade flows have been disputes over conditions of access for bananas marketed by U.S. firms and trade in meats from animals produced with growth-promoting hormones. U.S.-EU agricultural trade relations are also affected by differences in consumer attitudes and regulatory requirements for genetically engineered (GE) products, such as GE varieties of soybeans and corn (see **Biotechnology and Agricultural Trade** below). Many in the 107th Congress will be monitoring further developments in these disputes.

The United States and the European Union (EU) reached an agreement in April 2001 that resolved a long-standing dispute over the EU's rules for importing **bananas**. Objections to the agreement by other banana exporting countries, such as Ecuador and Caribbean banana exporters, have been withdrawn. The U.S.-EU banana agreement provides for a transition to a tariff-only system of imports in 2006. In the meantime, the EU will establish quotas and a licensing system based on historical trade shares that should increase the prospects for Latin American banana imports in the EU market, especially bananas marketed by U.S. firms like Chiquita Brands International. In November 2001, the WTO granted waivers of WTO rules allowing the EU to continue preferential treatment for banana exports of developing countries that are former EU member country colonies. These waivers paved the way for full implementation of the agreement in January 2002. Trade policy officials on both sides of the Atlantic expressed hopes that the banana agreement would contribute to a climate for resolving other thorny trade disputes and for bilateral and multilateral cooperation. Some observers think that whatever benefits resolution of the banana dispute might have had are being overwhelmed by other, larger U.S.-EU disputes about steel and tax benefits for U.S. export sales. Members and committees of the 107th Congress will be monitoring implementation of the banana agreement and its effects on U.S.-EU trade relations.

In the continuing **meat hormone** dispute, the United States successfully challenged in the WTO the EU's ban on imports of meats from animals produced with growth-promoting hormones. The WTO agreed with the United States that the ban, which the EU justifies as needed to protect consumer health, violates provisions of the WTO Sanitary and Phytosanitary (SPS) Agreement. This agreement requires food safety measures to be based on scientific evidence and an assessment of health risks. The WTO authorized U.S. retaliation of \$117 million and the EU offered to compensate the United States with an enlarged quota for non-hormone treated beef in lieu of lifting the ban. The United States, however, has maintained that compensation, unless contingent on removing the ban, is unacceptable. No agreement on a compensation package has developed.

Recent occurrences of bovine spongiform encephalopathy (BSE) or “mad cow disease” in several European Union countries and the outbreak of food-and-mouth disease (FMD) in the United Kingdom and other EU countries have contributed to an environment that is not conducive to resolving the meat hormone dispute. The EU has recently indicated its intention to make the ban on hormone-treated meat permanent. This resolve has been strengthened by the April 23, 2002 report of the EU’s Scientific Committee on Veterinary Measures which says its review of new test results and other evidence establish that the use of hormones as growth promoters in cattle poses a potential risk to human health. At the same time, the EU is expressing openness to renewing discussions about a compensation arrangement which would increase the EU’s market access for non-hormone treated beef. Meanwhile, the EU has indicated that it will end mandatory testing of U.S. non-hormone treated beef. Some meat exporters view this change as a positive step toward reaching a compensation agreement. (See *The European Union’s Ban on Hormone-Treated Meat*, CRS Report RS20142; and *The U.S.-European Union Banana Dispute*, CRS Report RS20130.)

Biotechnology and Agricultural Trade

Conflict between the United States and its trading partners over regulations for genetically engineered (GE) crops and food products that contain them pose a potential threat to, and in some instances have already disrupted, U.S. agricultural trade. Underlying the conflicts are pronounced differences between the United States and several important trading partners in consumer attitudes about GE products and their potential health and environmental effects.

Consumer acceptance of GE crops and foods at home and abroad is critical to U.S. producers, processors, and exporters. U.S. farmers have adopted GE crops because they offer prospects of reducing input costs or making planting more flexible. Aside from their agronomic benefits, supporters of GE crops maintain also that the technology holds promise for enhancing agricultural productivity and improved nutrition in developing countries. For the most part, U.S. consumers have not questioned the health or safety of GE foods. Concerns about the environmental consequences of planting GE varieties are more widely held. In contrast, in the EU, Japan, South Korea, and elsewhere, consumers, environmentalists, and some scientists maintain that the long-term effects of GE foods on health and the environment are unknown and not scientifically established. The EU, in particular, insists that precaution should be used in approving and regulating GE foods.

The U.S. regulatory framework for GE foods facilitates their introduction into U.S. agriculture and food processing. The guiding principal is that GE foods are “substantially equivalent” to conventional foods; therefore, existing regulations for approving foods are appropriate and adequate. Labeling with respect to GE content is not required in the United States, except where there is a significant difference between the conventional and the GE food product (for example, the presence of an allergen). The EU, Japan, South Korea, Australia, and New Zealand either have or are establishing mandatory labeling requirements for products containing GE ingredients; China also is establishing rules for approval and labeling. Japan, the EU, South Korea, and China are major overseas markets for U.S. agricultural exports. The EU has developed a new approval process for GE crops, as well as EU-wide legislation for tracing GE crops through the marketing chain and for labeling products that contain GE ingredients (including products where no trace of modified DNA is present). U.S. trade policy officials have criticized the new rules as unnecessarily onerous, while producers and marketers of GE products have expressed concern about the additional regulatory burden and cost that the new biotech rules would impose. The new legislation

still must be approved by the European Parliament as well as individual EU member governments before it can take effect in 2003. The possibility of a U.S. challenge to EU regulations in WTO dispute settlement has been raised by both industry and government spokespersons.

Both the food industry and government regulators are likely to be involved in trying to influence as well as meet the diverse labeling regulations in overseas markets. U.S. industry is assessing the costs and benefits of separating GE from non-GE crops and of preserving crop identity in the marketing chain. U.S. officials are considering changes in the regulatory framework to permit and facilitate voluntary labeling and/or enhance systems for certifying the statements about the GE content of foods. Issues surrounding GE foods may be on the agenda of WTO multilateral trade negotiations (MTNs) in agriculture, launched in March 2000. Negotiations may focus on whether existing rules can be interpreted to apply to GE products or whether new rules are needed.

Biotechnology issues are receiving attention in the 107th Congress. A number of provisions relating to biotechnology have been included in the 2002 farm bill, which passed the House on May 3, 2002. These include: a biotechnology and agricultural trade program, aimed at barriers to the export of U.S. products produced through biotechnology (Section 3204); competitive grants for biotechnology risk assessment research (Section 7210) and for agricultural biotechnology research and development for developing countries (Section 7505); and a program of public education on the use of biotechnology in producing food for human consumption. (Section 10802). Bills introduced in the 106th Congress to require mandatory labeling of GE foods have not been reintroduced in the current Congress. (For more information, see *Food Biotechnology in the United States: Science, Regulation, and Issues*, CRS Report RL30198; and *StarLink Corn Controversy: Background*, CRS Report RS20732; *U.S. European Agricultural Trade: Food Safety and Biotechnology Issues*, CRS Report 98-861; and *Biotechnology and Agricultural Trade in the CRS Electronic Trade Briefing Book*. Also see: General Accounting Office, *Concerns Over Biotechnology Challenge U.S. Agricultural Exports*, GAO-01-727, June 2001.)

China and U.S. Agriculture

Congressional committees in the 107th Congress (especially the House Ways and Means, Senate Finance, and House and Senate Agriculture Committees) have indicated that they will closely monitor China's compliance with the terms of its accession to the WTO. By early December 2001, the Administration already was expressing concern that China may not be implementing (or not properly implementing) its commitments on tariff-rate quotas (TRQs) for agricultural imports. Tariff reduction and establishment of TRQs for agricultural products were key components of China's WTO accession agreement. China has repeatedly delayed announcement of regulations for the TRQs. The United States and other exporting countries are pressing China to get the TRQs in place so they can take advantage of the export opportunities that the TRQs are expected to provide. There also is concern that China may begin to use more non-tariff barriers to protect its agricultural producers from import competition. For example, new Chinese rules for the approval and labeling of genetically modified farm products were set to take effect in March, but have now been delayed. In the interim, the United States and China have reached an agreement that will permit soybean exports to continue while China works out the details of its regulations. GMO regulations could impact on the nearly \$1 billion of U.S. soybean exports to China.

The stakes are high due to the size of China's market for U.S. agricultural products generally and future prospects for growth in demand. U.S. agricultural exports to China were valued at \$1.884 billion in FY2001, making it the United States' seventh largest market for farm products. An additional \$1.253 billion of U.S. farm products were shipped to Hong Kong in 2001. U.S. agricultural exports to China are forecast to be \$2.3 billion in FY2002, approaching the \$2.4 billion reached in 1995. If long-run growth is strong, as many economists expect, China's 1.3 billion population, and its growing middle class, suggest an even greater potential as a market for U.S. agricultural products.

During the 106th Congress, President Clinton requested and Congress enacted legislation (P.L. 106-286) to accord China permanent normal trade relations (PNTR) status, which extends to China the same low tariffs applied to other member countries of the WTO. In September 2001, China completed all of the multilateral and bilateral trade negotiations required for WTO accession, and on November 10, the WTO approved China's membership; formal entry occurred on December 11. (For more information, see *Agriculture and China's Accession to the World Trade Organization*, CRS Report RS20169; and *China's Accession to the WTO in the CRS Electronic Trade Briefing Book*.)

Agricultural Export and Food Aid Programs

Major agricultural export and food aid programs, which generally operate under the authority of the Federal Agricultural Improvement and Reform (FAIR) Act of 1996 (P.L. 104-127), are: (1) the Export Enhancement Program (EEP) and Dairy Export Incentive Program (DEIP), the only current direct price export subsidy programs; (2) food aid programs (Section 416 food donations, Food for Progress and P.L. 480 – Food for Peace); (3) export credit and credit guarantee programs (GSM-102 and GSM-103); and (4) market promotion programs (Market Access Program (MAP), and the Foreign Market Development Cooperator Program (FMD)). These programs are shaped and funded both by authorizing legislation (primarily omnibus farm bills) and by annual appropriations.

FY2002 Appropriation. The President signed the FY2002 measure into law on November 28, 2001 (P.L. 107-76; H.R. 2330). For the international activities of USDA funded through annual appropriations (discretionary programs), the FY2002 appropriation provides \$1.124 billion, most of it for P.L. 480 food aid. The total is slightly higher than the FY2001 amount and than the President's request.

Many of USDA's international programs are not subject to direct annual appropriations, and instead are directly funded through the borrowing authority of USDA's Commodity Credit Corporation (CCC). Of the \$5.8 billion in the FY2002 program level² (value of goods and services supported by funding) USDA anticipates for all USDA international activities, \$3.9 billion would be for CCC export credit programs, which guarantee payment for commercial financing of U.S. agricultural exports (about \$100 million more than in FY2001). The actual level of credit guarantees will depend on market conditions and the demand for export financing.

² Program levels exceed outlays because for federal credit programs, such as CCC export credit guarantees, which are a substantial portion of USDA's international activities, only administrative expenses and loan subsidies, not the value of the loan or guarantee, require an appropriation. In addition, CCC funded activities, such as EEP, MAP, and FMDP, which are included in program level, do not require annual appropriations.

Two other CCC-funded programs help develop markets for agricultural exports. For MAP, the Administration will allocate \$90 million, the maximum allowed under the 1996 farm law, to trade associations for export market development activities. A House floor amendment that would have prohibited any MAP funding in FY2002 was defeated by a vote of 85-341. USDA has announced the allocation of \$33.5 million for the FMDP in FY2002.

EEP and DEIP also are direct CCC programs. USDA has used little EEP in recent years (\$1 million in FY2000 and \$6.9 million in FY2001) because, according to USDA, global supply and demand conditions do not favor its use. Although the EEP spending level for FY2002 is estimated at \$478 million, the maximum authorized in the 1996 farm law and under the WTO agreement on agriculture, no EEP bonuses have thus far been allocated in FY2002. For DEIP, the Administration has allocated \$43.3 million, an increase from the FY2001 estimate of \$32 million. Senate committee report language in appropriations legislation among other things “expects” the Administration to use fully its DEIP authority.

Section 416(b) commodity donations and food aid provided under the Food for Progress (FFP) program are also CCC-funded. Section 416(b) donations were valued at more than \$1.1 billion in FY2001 (commodity value and ocean freight and overseas distribution costs). USDA estimates that allocations of commodities under Section 416(b) in FY2002 will amount to \$650 million. FFP, which provides U.S. farm commodities to developing countries and emerging democracies, would require an estimated \$109 million in FY2002. All of Section 416(b) and much of FFP are funded by the CCC.

FY2003 Appropriation. Congress is now considering the Bush Administration's FY2003 budget request for USDA. For USDA's international activities, the Administration estimates FY2003 budget outlays of \$2.31 billion to support a program level of \$6.45 billion. Foreign food aid programs would decline under the FY2003 proposal, to \$1.35 billion compared with an estimated \$1.61 billion in FY2002, which food aid advocates argue would sharply reduce tonnage. The Administration has recommended curtailing the use of Section 416 as a vehicle for food aid, which it rationalized through its recent review of food aid -- a review that also recommended (and is in the budget proposal) that all programs now run through private voluntary organizations, cooperatives, and the World Food Program be placed at AID, with USDA food aid activities confined to government-to-government programs.

Omnibus Farm Bill. Omnibus farm legislation (H.R. 2646) has passed both the House and Senate and a conference committee has produced a report reconciling differences between the two bills. The House agreed to the conference report on May 3, 2002. The Senate will take up the measure the week of May 6 and passage there is also expected.

The new farm bill amends and extends most agricultural export and food aid programs through 2007. The bill reauthorizes both EEP and DEIP through 2007. Funding for MAP, currently at \$90 million, will be increased to \$100 million in FY2002, \$110 million in FY2003, \$125 million in 2004, \$140 million in FY 2005, and \$200 million for FYs 2006-2007. For USDA's other export market development program, FMDP, funding will be increased from \$27.5 million per year currently to \$34.5 million per year. The export credit guarantee programs are reauthorized at current levels (\$5.5 billion per year).

The conference report reauthorizes the Food for Peace or P.L. 480 food aid program through FY2007. It eliminates the annual \$1 billion cap on Title II spending, increases the minimum level of commodities to be donated under Title II to 2.5 million metric tons per year, and funds transportation, storage and handling charges in the distribution of Title II

commodities at between 5% and 10% of annual Title II funding. The farm bill conference report makes a number of changes intended to streamline program administration. Also the new farm bill reauthorizes the Food for Progress program through FY2007, lifts funding caps on administrative costs and costs related to commodity transportation, and sets a minimum tonnage of 400,000 metric tons per year. The farm bill authorizes the President to establish a "McGovern-Dole International Food for Education and Child Nutrition Program" with funding mandated at \$100 million in FY2003. Thereafter, the funding level for this program would be subject to annual appropriations.

(For more information, see *Agricultural Export and Food Aid Programs*, CRS Issue Brief IB98006; *Agricultural Export Programs: The Dairy Export Incentive Program*, CRS Report RS20402; *Agricultural Export Programs: The Export Enhancement Program*, CRS Report RS20399; *Agricultural Export Programs: The Market Access Program and Foreign Market Development Cooperator Program*, CRS Report RS20415; and *Foreign Food Aid Programs: Background and Selected Issues*, CRS Report RS20520; and *Agricultural Export Subsidies, Export Credits, and the World Trade Organization*, CRS Report RS20858.)

Sanctions and Agriculture

The 106th Congress codified the lifting of U.S. sanctions on commercial sales of food, agricultural commodities, and medical products to Iran, Libya, North Korea, and Sudan, and extended this policy to apply to Cuba (Title IX of H.R. 5426, as enacted by P.L. 106-387; the Trade Sanctions Reform and Export Enhancement Act of 2000, or TSRA). Enacted provisions place financing and export licensing conditions on sales to these countries; those applicable to Cuba are *permanent* and *more restrictive* than for the other countries. The inclusion of Cuba in this exemption to U.S. unilateral sanctions policy generated the most controversy. Proponents argued that the embargo on sales to Cuba (a sizeable nearby market) harmed the U.S. agricultural sector, and that opening up limited trade would be one way to pursue a "constructive engagement" policy. Opponents countered that such an exemption would undercut current U.S. policy designed to keep maximum pressure on the Castro government until political and economic reforms are attained. In conference action on the TSRA, opponents succeeded in inserting the restrictive provisions that apply to Cuba.

Under the new policy, Cuba in late 2001 made its first cash purchases of U.S. wheat, rice, and other agricultural commodities (totaling \$35 million) from several U.S. agribusiness firms in order to quickly rebuild food reserves. This decision reflected a reversal in Cuban policy, prompted by losses of stocks caused by Hurricane Michelle that struck the island a few weeks earlier. Following TSRA's enactment in October 2000, Cuba's leaders had signaled there would be no purchases of permitted U.S. products because of the statutory provisions that prohibited the use of private financing to make agricultural and medical product sales and restricted tourist travel to Cuba. They strongly criticized these prohibitions as "unworkable" and "insulting," viewing them as a tightening rather than an easing of the embargo. Some observers, though, viewed such talk as political rhetoric and speculated that pragmatists in the Cuban government seeking to save scarce resources might in time influence a softening in its leadership's stance. Cuba reportedly purchased an additional \$38 million in U.S. agricultural products in early March 2002.

Members of Congress opposed to TSRA's prohibitions, particularly with respect to Cuba, have introduced measures to repeal these provisions (H.R. 173; H.R. 174; H.R. 797/S. 402; H.R. 798/S. 400; H.R. 2138/S. 1017; S. 171; and S. 239). Some of these bills include provisions to amend TSRA as part of broader proposals to modify or end the U.S. embargo

on Cuba. Reflecting in part these views, the Senate's comprehensive farm bill would repeal TSRA's prohibition on the private U.S. financing of agricultural sales to Cuba (Section 335 of S. 1731). The Bush Administration has expressed strong opposition to this provision. During debate on this bill in December 2001, the Senate tabled (effectively rejected) on a 61-33 vote an amendment that would have conditioned U.S. sales of agricultural products to Cuba upon a Presidential certification that Cuba was not involved in supporting international terrorism. The farm bill conference report, however, dropped the Senate provision striking TSRA's prohibition of private financing of agricultural sales to Cuba. Consequently the prohibition remains. However, some in Congress have indicated they will attempt to incorporate a measure permitting private financing of U.S. farm sales to Cuba in FY2003 appropriations legislation.

Separately, in reauthorizing export control authority (S. 149), the Senate on September 6, 2001, passed an amendment that effectively prohibits their use to limit food sales for national security and foreign policy reasons. Related provisions require that the exercise of any export control authority on food conform to TSRA provisions. In other action, the President on October 26, 2001, signed into law an anti-terrorism package (P.L. 107-56) that includes provisions that amend and clarify TSRA authority. The final compromise, though, does not alter TSRA's main features. (For more information, see *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*, CRS Issue Brief IB10061; and Cuba Sanctions in the CRS Electronic Trade Briefing Book.)