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U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?

Recent agricultural export data reveals some stark and disturbing statistics.[1] Congress found that between 1981 and 1987 agricultural exports declined more than thirty-six percent, a loss of $14.7 billion.[2] The U.S. share of the world market for agricultural commodities has dropped by twenty percent during the last six years.[3] There is not a single, straight-forward explanation for the decline in agricultural exports.[4] However, as a result of the decline, the United States incurred monthly agricultural trade deficits in 1986, the first such deficits in 15 years.[5] Corresponding losses of agricultural jobs and detrimental economic effects on the family farm and in rural community have been evident in the last five years.[6]

These events prompted Congress to include numerous agricultural provisions in the Omnibus Trade and Competitiveness Act of 1988 (1988 Trade Bill).[7] The 1988 Trade Bill is the most

1. Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, § 4101, 102 Stat. 1107, 1388 (codified at 7 U.S.C.A. § 5201 (West Supp. 1988))[hereinafter 1988 Trade Bill].

2. *Id.*

3. *Id.* It seems fantastic that such a reversal could have occurred in such a short time. Scholars, economists and farmers were not prepared for such an abrupt end to America's agricultural export successes. *See* Leman & Paarlberg, *The Continued Power of Agricultural Interests*, in AGRICULTURE AND RURAL AREAS APPROACHING THE TWENTY-FIRST CENTURY: CHALLENGES FOR AGRICULTURAL ECONOMICS 32, 42-43 (1988) [hereinafter Leman & Paarlberg]. It should be noted that agriculture exports are beginning to increase. In 1981 agriculture overseas sales amounted to $44 billion. In 1986 sales dropped to $26 billion, but sales rebounded in 1987 to $28 billion. Carr, *Agriculture: Trade and Domestic Policy*, CRS REV., June 1988, at 20, 21. Projected sales for 1988 are $33 billion. This improvement is likely due to the combined effects of the dollar's decline, smaller crops by foreign producers, and numerous legislative and administrative initiatives in recent years.

4. The fall was more probably caused by a number of factors. They include: the addition of new exporting nations; the changes on world markets; new technology; export subsidies; trade barriers; slower growth in demand because of currency fluctuations; and slow growth in developing countries.

5. 7 U.S.C.A. § 5201(3) (West Supp. 1988).

6. Congress estimates that 35,000 agricultural jobs and 60,000 nonagricultural jobs are lost for every $1 billion lost in agriculture exports. *Id.*

7. Most of these provisions are included in title IV of the 1988 Trade Bill, called the Agricultural Competitiveness and Trade Act of 1988, Pub. L. No. 100-418, § 4101, 102 Stat. 1107, 1388 (codified at 19 U.S.C.A. § 5201 (West Supp. 1988)).

significant legislation affecting farm trade since the Food Security Act of 1985.[8] In an attempt to revitalize U.S. agricultural exportation, Congress set out several new initiatives to increase the effectiveness of U.S. agricultural trade policy and to improve the competitiveness of U.S. agricultural commodities abroad.[9] However, even though the Bill may revitalize agricultural exportation in the short term, it will likely fall short of this goal in the long term because it strives to be more market-oriented, while simultaneously supporting subsidy programs which interfere with free trade.

This comment suggests the 1988 Trade Bill provisions related to agriculture represent a step in the wrong direction for U.S. agricultural export policy.[10] Section I of this comment outlines the history and development of current inconsistencies in U.S. agricultural export policy as it relates to this country's economic philosophy and its commitment to the General Agreement on Tariffs and Trade (GATT).[11] Section II analyzes the provisions of the Trade Bill affecting agriculture in light of current U.S. agricultural export policy. Section III suggests an approach that, in the long term, will be more effective than the 1988 Trade Bill to increase the competitiveness of U.S. agricultural products abroad. This comment concludes that because the 1988 Trade Bill endorses market-oriented trade, it should have been more effective in eliminating agricultural trade barriers.

I. Background—Conflicting U.S. Agricultural Export Policy

Current U.S. agricultural exportation policy consists of two inherently inconsistent groups of programs. The first, subsidy programs, originated in the post-depression era to counter the

8. Food Security Act of 1985, Pub. L. No. 99-198, 99 Stat. 1354 (codified as amended in scattered sections of 7 U.S.C.). The Food Security Act lowered support prices for major grains that made them more price competitive in world markets and also expanded or created new export promotion and subsidy programs. The Act is the most current major farm legislation, which is on a four year cycle. Leman & Paarlberg, *supra* note 3, at 34. Congress is now reviewing the 1990 farm bill. *See New Bush Administration and Congress Likely to Make Trade a High Priority in 1989*, 6 Int'l Trade Rep. (BNA) 113, (Jan. 25, 1989).

9. 7 U.S.C.A. § 5203 (West Supp. 1988) ("One of the purposes of the provisions is to improve the competitiveness of United States agricultural commodities and products in the world market.").

10. The general goals of U.S. agriculture export policy are outlined *infra* text accompanying note 80.

11. For a general description of GATT, see text accompanying note 42.

effects of overproduction and support farm prices.[12] Elements of these programs remain a large part of today's farm policy. Second, market-oriented programs, originating in the late 1970's, assert that the most effective way to counter overproduction is through free market forces. The administrations of the last decade established a trend toward market-oriented trade by reducing the subsidy programs of the past.[13] However, subsidy program advocates remain unwilling to fully embrace the market-oriented approach. As a result, these two groups of programs comprise the dual personality of current agricultural export policy.

A. Federal Subsidy Programs

United States farmers have been exporting their products for nearly 50 years.[14] They have traditionally been efficient, producing more than they could sell at home or overseas for much of this time.[15] This overproduction caused market instability. U.S. policymakers implemented programs of acreage allotments[16] and surplus stock acquistions[17] to counter overproduc-

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12. Womach, *Price Support Programs: Too Costly?*, CRS REV., May 1987, at 5 [hereinafter Womach].

13. The Food Security Act of 1985 substantially reduced traditional commodity support programs, even though overall spending for the agricultural sector increased. *See* Leman & Paarlberg, *supra* note 3, at 35.

14. Prior to World War II, agricultural exports accounted for only a small percentage of U.S. exportation. After World War II, the U.S began exporting greater quantities of farm products overseas. The resulting prosperity of exporting grains and other foodstuffs soon became apparent, and in 1950, as much as 14.7% of the total crop harvest was shipped abroad. During the next two decades, the exportation of agricultural products slowed, partly because of the Korean war and partly because of the effects of U.S. government regulation. *See* Mayer, *U.S. Agriculture Export Policy: The 1980's* 1 WIS. INT'L L. J. 42, 43 (1982).

15. *Id.*

16. Acreage allotments consist of mandatory limits on the amount of land that may be harvested. The permanent authority for enforcing these allotments is found in the Agricultural Adjustment Act of 1938, Pub. L. No. 430, 52 Stat. 31, 52 (codified in scattered sections of 7 U.S.C.). The bill has been amended over the years; current authority for this program is found in the Food Security Act of 1985, Pub. L. 99-198, 99 Stat. 1354 (codified as amended in scattered sections of 7 U.S.C.).

17. Farmers received money from the government through the use of non-recourse loans. Governmental loans to farmers were secured with farm commodities. The non-recourse nature of the loan allowed farmers to forfeit the collateral and keep the loans if the commodities could not be sold at a profit. The effect was simply that the government purchased the farmers' excess commodities. This program is also in force today and works as a price guarantee for farmers. *See* Food and Security Act of 1985, Pub. L. 99-198, 99 Stat. 1354, 1447-48 (codified as amended in scattered sections of 7 U.S.C.).

tion and the resulting market instability.[18] The overproduction also prompted Congress to encourage expansion of international trade and export markets for America's agricultural products.[19]

In the 1970's, U.S. agricultural exports became extremely profitable.[20] Favorable agricultural conditions fueled world agricultural trade and made the United States the world's largest exporter of agricultural products.[21] Dependence of U.S. agriculture on export markets doubled.[22] This growing dependence on export markets prompted Congress to enact laws to hold these markets intact by promoting exportation.[23]

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18. Federal support programs historically have been justified by the vulnerability of agriculture to forces beyond farmers' control and by the crucial place agriculture plays in the nation's socio-economic fiber. Castle & Hildreth, *Agricultural Economics at a Crossroads*, in AGRICULTURE AND RURAL AREAS APPROACHING THE TWENTY-FIRST CENTURY: CHALLENGES FOR AGRICULTURAL ECONOMICS 5, 6 (1988).

19. These legislative acts served not only to expand U.S. agricultural exports, but also to protect existing U.S. markets. One of the first of these acts was the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), Pub. L. No. 83-480, 68 Stat. 454 (codified in 2 U.S.C. § 1691).

The primary purpose of P.L. 480 was to expand international trade of U.S. agricultural exports. This was accomplished in three ways. First, an international export market was developed by using surplus farm goods. Second, the government assisted agricultural producers and exporters in developing export markets. Third, the Act granted food assistance to needy countries and extended credit terms to countries that purchased U.S. agriculture. The Act was successful in both reducing surpluses and expanding the U.S. agricultural export market. *See* J. WESSEL, TRADING THE FUTURE 153 (1983).

The second act that substantially increased the government's role in expanding international markets for U.S. agriculture was the Trade Expansion Act of 1962, Pub. L No. 87-794, 76 Stat. 872 (codified as amended in scattered sections of 19 U.S.C.). The Act authorized presidential involvement in the Kennedy Round of the General Agreement in Tariffs and Trade (GATT). It also authorized the President to maintain access to foreign markets and to retaliate against export restrictions of other countries. *See* Echols, *Section 301: Access to Foreign Markets from an Agricultural Perspective*, 6 INT'L TRADE L. J. 4, 4 (1981).

20. Exports during this period rose 166% in volume and 172% in real value. Mayer, *supra* note 14, at 43. *See Comment, The Growth of U.S. Agricultural Exports: The Role of Government*, 1 WIS. INT'L L. J. 110, 112 (1982).

21. *Comment, supra* note 20, at 113.

22. By 1987, 20% of U.S. agriculture revenues were generated by exports. For major U.S. crops like wheat and soy beans, the dependence on export markets was even higher—nearly half the crops were exported. *See* Carr, *supra* note 3, at 20 CRS REV., June 1988, at 20.

23. During the decade from 1970-79 there were four bills passed to hold these markets intact: First, the Trade Act of 1974, Pub. L. No. 93-618, 88 Stat. 1978 (codified as amended in scattered sections of 5 U.S.C. and 19 U.S.C.), extended the President's authority to represent the United States at GATT's Tokyo Round. *Id.* at 1986. It also amended section 301 of the Trade Expansion Act of 1962 by allowing the President to take retaliatory actions against nations negatively affecting U.S. agricultural export markets. It allowed the President to suspend trade concessions made to other countries and to enact various import fees. *Id.* at 2041-42.

Just as U.S. agriculture policy came to rest on the premise of ever-expanding exports, the boom was halted and reversed in the early 1980's.[24] Monetary and fiscal policies and shifts in world trade patterns, developments in places thousands of miles from U.S. farms, depressed demand for U.S. agricultural products.[25] As a result, demand for farm exports fell dramatically.[26] At the same time, surpluses grew, driving down market prices. Depressed market prices reduced the value of farm assets. Seeing the inadequacy of the traditional support programs, Congress moved to increase funding for farm subsidy programs.[27]

In 1985 Congress introduced a third major program to continue its policy of farm supports. The Food and Security Act of 1985 implemented the Export Enhancement Program (EEP).[28] The EEP retains the basic characteristics of traditional agricultural support programs in which the government guarantees farmers high prices for their commodities, despite excess production. The EEP operates by retaining historical purchase

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Second, the Export Administration Amendments of 1977, Pub. L. No. 95-52, 91 Stat. 235 (codified as amended in scattered sections of 50 U.S.C.), further expanded international markets for U.S. agriculture by eliminating policy restrictions for communist countries. *Id.* at 236. This allowed the U.S. to trade more freely with the Soviet Union, which became the largest market for U.S. wheat exportation in the 1970's.

Third, the Agricultural Trade Act of 1978, Pub. L. No. 95-501, 92 Stat. 1685 (codified as amended in scattered sections of 7 U.S.C.), reiterated U.S. commitment to increasing agricultural exports. It also recognized that increased exportation will help minimize the U.S. trade deficit. *See also* The Trade Agreements Act of 1979, Pub. L. No. 96-398, 93 Stat. 144, 146 (codified as amended in scattered sections of 19 U.S.C. and 26 U.S.C.) (continuing Congressional policy to enhance the agricultural export position of the U.S.).

Fourth, the most significant trade legislation affecting U.S. agriculture was the Export Administration Act of 1979, Pub. L. No. 96-72, 93 Stat. 503 (codified as amended in scattered sections of 7 U.S.C.). Congress found that exports are a significant factor for the economic health of the United States since they strengthen the country's trade balance. *Id.* Congress also found that export restrictions on agricultural products must be minimized. *Id.* In addition, Congress set out several policy considerations, the most important of which are (1) to utilize export controls in accordance with the policies of other countries; (2) to use economic and trade resources of the U.S. to stimulate the economy and benefit foreign policy goals; and (3) to establish a free market system for U.S. agricultural exports. *Id.* at 504-505.

24. Carr, *supra* note 3 at 21.

25. *See* Leman & Paarlberg, *supra* note 3, at 43.

26. *See Trade and International Policy Reform Act of 1987: Hearing on H.R. 3 Before the House Comm. on Agriculture*, 100th Cong., 1st Sess. 95 (1987) (remarks of the Hon. Hal Daub).

27. Congress increased commodity and price support by 228% between 1980 and 1984. This increase represented more federal support for the agricultural sector than any other major economic sector. Leman & Paarlberg, *supra* note 3, at 35.

28. 7 U.S.C. § 1736 (v)-(i) (Supp. IV 1986).

prices for export market nations while assuring higher sales prices to domestic farmers. Congress allocated $1.5 billion to make up the difference between foreign market price and the government guaranteed domestic sales price.

Subsidy programs were created for the benefit of both farmers and consumers. During the period of time that farm subsidy programs dominated agricultural policy, the percentage of income consumers spent on food steadily declined.[29] Farmers were able to increase exportation because of an artificially created comparative advantage.[30] The programs have also done much to stabilize agricultural prices.

However, the benefits derived from these programs may not outweigh their costs. Four concerns illustrate this imbalance. First, the cost associated with farm support programs have increased dramatically in recent years. Commodity programs cost the United States $53 billion from 1980 to 1984, representing a 228% increase over the previous four years.[31] The United States absorbs these costs, which are likely reflected in the increasing federal deficit. These costs are ultimately passed on to U.S taxpayers.[32]

Second, subsidy programs are not aimed at the most needy farmers. Department of Agriculture data reveal that only 17% of federal farm income subsidies reached financially distressed farmers.[33] Distribution of benefits under the commodity programs is based on production of certain targeted commodities and not upon financial needs. Farmers that produce larger quantities of the targeted commodities receive larger payments and larger nonrecourse loans. Because these farm programs were

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29. The most important benefit has been for consumers. One specialist stated that

> [a]s measured by the consumer price index, food prices have increased 353% over the past forty years, compared to 390% for all items. The proportion of disposable personal income spent on food has declined from 25.9% in 1947 to 14.7% in 1986. Moreover, the farm value of expenditures was only 25% of total expenditures (compared to 51% in 1947); the other 75% was for marketing expenses. . . . The credit due farm programs for an abundant and relatively low cost food supply is uncertain, but they certainly have had an impact.

Womach, *supra* note 12, at 7.

30. *Id.* at 8.

31. Leman & Paarlberg, *supra* note 3, at 35.

32. For a detailed discussion on the cost of U.S. farm programs to consumers and taxpayers, see D. JOHNSON, K HEMMI & P. LANDINOIS, AGRICULTURAL POLICY AND TRADE 76-79 (1985)[hereinanfter AGRICULTURAL POLICY]. For a more general discussion of these costs see Womach, *supra* note 12, at 6.

33. Leman & Paarlberg, *supra* note 3, at 38.

neither intended nor designed to specifically aid farms in financial difficulty, logic dictates that there are more direct and less costly ways to aid financially distressed farmers.

Third, export enhancement programs, whether in the form of traditional commodity supports or the newly designed support programs of the 1985 act, have become less efficient. Developing countries, formerly providing large export markets for U.S. agriculture, are increasingly self sufficient. Many of these countries are now in direct competition with the United States, as they develop their own export markets. Consequently, U.S. export markets have shrunk, leaving the U.S. to greatly increase their monetary support to hold markets intact, thus fueling the program's inefficiency.[34]

Fourth, although farm support programs stabilize domestic farm prices, they have also been the cause of distortions in world trade. World trade is distorted because these programs create an artificial comparative advantage. Through commodity price support programs, support is being given to U.S. commodities which are produced at an economic disadvantage. This isolates them from world competition, which distorts world agricultural trade.[35]

B. The Free Market Policies in Agriculture

Realizing the inadequacy of federal support programs, Congress and President Reagan turned to implementing free trade policies in order to enhance agricultural exportation. There is now a common understanding that the prosperity of U.S. farmers is inseparably linked to export markets, and federal efforts to help farmers must include reduction of trade barriers worldwide to expand those markets.[36] Adoption of this market-oriented agricultural trade policy is evidenced in three ways.

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34. Bale & Southworth, *World Agricultural Trade and Food Security: Emerging Patterns and Policy Directions*, 1 WIS. INT'L L. J. 24, 27 (1982).

35. Additionally, where there is an export market for U.S. agricultural products, production subsidies are creating excess output which is being moved into world markets with the help of export subsidies. Subsidized excess production and exports from the U.S. adversely affect farmers world wide, whether they are producing for local consumption or for export. *See* AGRICULTURAL POLICY, *supra* note 32, at 66.

36. COUNCIL OF ECON. ADVISERS ANN. REP. (1988) ("Since domestic farm programs and foreign policy are fundamentally bound together, free trade and agriculture requires reform of domestic agricultural policies as well as border measures [import restrictions] such as tariffs and quotas.").

First, through recent farm legislation, Congress has adopted a market-oriented agricultural export policy. As early as 1979 Congress found that U.S. agricultural export policy should be more market-oriented.[37] The Export Administration Act of 1979 established that exports are a significant factor for the economic health of the United States since they strengthen the country's trade balance.[38] They also found that export restrictions on U.S. agricultural products must be minimized to establish a free market system for the country's agricultural exports. This marks the first time Congress explicitly adopted free market policy for agricultural exports.

The Food Security Act of 1985,[39] in addition to adopting the EEP, set out initiatives moving U.S. agricultural trade to a more market-oriented policy. These initiatives lowered price support levels for wheat, feed grains and other price supported commodities. The intent was to bring down farm prices to make U.S. commodities more attractive to foreign buyers, thereby increasing exports.[40]

Second, the President has also asserted his position on market-oriented agricultural trade. From 1980 the Reagan administration pushed for sharp reductions in subsidies to the farm sector.[41] The administration repeatedly asserted that moving more rapidly to a market-oriented farm sector, free of federal support, would make U.S. agriculture more competitive in world markets, notwithstanding short run pain to some individual farmers.[42] This policy is likely to continue under the Bush administration.

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37. *See* Export Administration Act of 1979, Pub. L. No. 96-72, 93 Stat. 503 (codified as amended in scattered sections of 7 U.S.C.).

38. *Id.*

39. Pub. L. No. 99-198, 99 Stat. 1354 (codified as amended in scattered sections of 7 U.S.C.). *See supra* note 8.

40. Cate & Becker, *Farm Problems: An Overview*, CRS REV., May 1987, at 1, 2.

41. President Reagan announced the U.S. long-term policy for farm exports. He stated that world markets must be freed of trade barriers and unfair trade practices. Mayer, *supra* note 14 at 48-49 (citing Office of the White House Press Secretary, Remarks of the President to American Editors and Representatives, Old Executive Building, March 22, 1982)).

42. *See Trade and International Policy Reform Act of 1987: Hearing on H.R. 3 Before the House Committee on Agriculture*, 100th Cong., 1st Sess. 74, 77-78 (1987) (Testimony by Clayton Yeutter, United States Trade Representative). Mr. Yeutter said,

President Bush said his blueprint for farm policy included opening more international markets and reducing trade barriers.[43]

Third, the United States has committed to market-oriented trade by participating in both bilateral and multilateral trade agreements. Both types of agreements are, by their nature, market-oriented. A bilateral agreement reduces trade barriers between the United States and another country. The United States has recently entered into an agreement with Canada which will eliminate virtually all bilateral tariffs between the two countries within ten years and will create a streamline mechanism for trade dispute resolution.[44] While bilateral agreements do not reduce trade barriers on a multilateral level, they may serve as a model for improvement in multilateral negotiations.[45] The most promising hope for a multilateral agricultural trade agreement depends on the current round of The General Agreement on Tariffs and Trade (GATT). GATT is an international code under which signatory countries agree to conduct international trade under specific rules.[46] One reason GATT is the most promising forum for a successful multilateral agreement on agriculture is that the United States is explicitly committed to GATT[47] which, in turn, is explicitly committed to freer worldwide agricultural trade.[48] The overall goal of GATT is to liberalize and break down existing trade barriers.

> I do not believe this amendment would be in the best interests of the United States. . . . The problem is too much government support and protection, which provides incentive to overproduce in many countries. Until nations join together in reducing incentives to produce, we can't begin to effect a cure. If we can gradually get government out of the agricultural market place on a global basis, production and trade will begin to follow the dictates of economic forces. The U.S., blessed with rich natural resources and the world's most advanced technology, should be a winner in such a situation.

Id.

43. *New Bush Administration, supra* note 8, at ____. President Bush reiterated his position by selecting Clayton Yeutter, former U.S. Trade Representative, as Secretary of Agriculture. Yeutter's policies have always advocated free and open markets.

44. United States-Canada Free-Trade Agreement Implementation Act of 1988, Pub. L. No. 100-449, 102 Stat. 1851.

45. *See Participants See Little Hope for Accord on Major Issues Facing GATT Trade Review*, 5 Int'l Trade Rep. (BNA) 1600 (Dec. 7, 1988) (Remarks by Canadian Prime Minister Brian Mulroney).

46. GATT was founded in 1947 with its primary purpose to improve the welfare of its members through the reduction of trade barriers. *See* AGRICULTURAL POLICY, *supra* note 32, at 26-27.

47. One of the most important provisions of the 1988 Trade Bill extends the President's authority to take part in GATT negotiations. 134 CONG. REC. S10717 (daily ed. Aug. 3, 1988) (statement of Sen. Durnenberger).

48. *See Participants See Little Hope for Accord on Major Issues Facing GATT*

On September 20, 1986 the Uruguay Round of GATT talks opened. One of the major goals of this round was to reform agricultural trade rules so the GATT rules could be implemented with greater effect.[49] Agriculture has become a critical issue in the GATT talks because the commodity support policies of the signatory countries result in surpluses which in turn cause governments to create export subsidies or import restrictions. Most countries' agriculture trade is based on government supported prices rather than market forces. This results in inefficient allocation of global agricultural resources which leads to market instability.

Traditionally, agricultural trade has been treated differently than all other trade under GATT. It has generally been exempt from GATT's prohibitions on quantitative export subsidies and import barriers.[50] Additionally, countries, including the United

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Trade Review, 5 Int. Trade Rep. (BNA) 1600 (Dec. 7, 1988) (Remarks by Canadian Prime Minister Brian Mulroney).

49. When the new round opened on September 20, 1986 it was declared that

> Negotiations shall aim to achieve greater liberalization of trade in agriculture and bring all measures affecting import access and expert competition under strengthened and more operationally effective GATT rules and disciplines . . . by: (i) improving market access through . . . the reduction of import barriers; (ii) improving the competitive environment by increasing disciplines on the use of all direct and indirect subsidies . . . affecting . . . agricultural trade, including the phased reduction of their negative effects . . . . (iii) minimizing the adverse effects that [health and sanitary] regulations have . . . on trade in agriculture . . . .

Hanrahan, *Negotiating Agriculture in the GATT: The Uruguay Round*, CRS REV., Mar. 1988, at 26 (citing Punta del Este Ministerial Declaration (Sep. 20, 1986) (citing the 1985 Comm. on Trade and Agriculture Rep.)).

50. Export subsidies are addressed in GATT art. XVI. It generally prohibits export subsidies but allows subsidies for agricultural products by distinguishing primary products (farm products) from non-primary products. For non-primary products export subsidies are prohibited if the subsidy "results in the sale of such product for export at a lower price than the comparable price and the comparable price charged for the like product to buyers in the domestic market." GATT Art. XVI, § 4.

For primary products, on the other hand, if subsidation "operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product . . . . GATT XVI, § 3.

Import barriers are treated under GATT Art. XI, entitled "General Elimination of Quantitative Restrictions." It provides that "[n]o prohibition or restrictions other than duties, taxes, or other charges, whether made effective by quota, import or export licenses or other measures, shall be instituted or maintained. . . ." However, paragraph 2(c), general exceptions to paragraph 1, allows quantitative restrictions for agricultural products if certain conditions are met. It provides:

> (c) import restrictions on any agricultural or fisheries product, imported in any form, necessary to the enforcement of governmental measures which operate:
>
> (i) to restrict the quantities of the like domestic product permitted to be

States, have been unwilling to subject their domestic agriculture policies to GATT rules. GATT settlement procedures have been ineffective in resolving international agriculture disputes.[51] The Uruguay Round is committed to resolving these problems.

C. The Conflicts in U.S. Agricultural Trade Policy

The domestic agricultural policies, discussed in sections A and B, are inseparably connected to U.S. international trade policy. When domestic policies conflict with U.S international trade policy, it is difficut to achieve successful agricultural trade. Policy makers have recognized this connection and have directed domestic policies toward a market-oriented approach.[52] The free trade policy of Congress and the current administration is at odds with traditional domestic farm subsidy programs.[53]

After the introduction of Congressional initiatives to channel agricultural export policy toward a free market system, many felt the commodity and price support programs would shortly disappear.[54] However, with the decline of the agricultural export market in the early 1980's, Congress was pressured to continue and even enhance commodity programs.[55] This marked the beginning of the dual and conflicting nature in current U.S. agricultural trade policy.

Current U.S. farm policy is largely contained in the 1985 Food Security Act.[56] The 1985 Act exhibits the dual nature of farm policy—commodity price support programs and free market initiatives. It represents a compromise between the market

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> marketed or produced . . . ; or,
> (ii) to remove a temporary surplus of the like domestic product . . . by making the surplus available to certain groups . . . free of charge or at prices below the current market level; or,
> (iii) to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.

51. Strengthening GATT rules and disciplines regarding agriculture is a major goal of the Uruguay Round. *See supra* note 49.

52. *Supra* notes 35-43, and accompanying text.

53. For a general discussion of the conflicting nature of U.S. agricultural policy see *supra* text accompanying notes 12-51.

54. Leman & Paarlberg, *supra* note 3, at 34.

55. *See Id.*

56. Pub. L. No. 99-198, 99 Stat. 1354 (codified as amended in scattered sections of 7 U.S.C.). According to one consultant, one of the major problems of the 1985 Bill is "a dual personality that strives to be more market-oriented while supporting market interference through subsidies." *New Bush Administration*, *supra* note 8, at ______.

oriented forces and those who believe that U.S. producers need a continuing infusion of federal aid. In addition to the 1985 Act, the inconsistent nature of U.S. policy is accentuated in light of U.S. commitment to free and open trade under the Uruguay Round of the General Agreements of Tariffs and Trade.[57]

This inconsistent duality in agricultural policy is perpetuated in the 1988 Trade Bill and will likely continue.[58] With the current trend toward market-oriented agricultural trade, it would have been reasonable to assume that this trend would continue in the 1988 Trade Bill. Unfortunately, the bill introduces a potential for increased farm support programs and represents a step in the wrong direction.

II. The Omnibus Trade Bill of 1988 and Its Affect on U.S. Agricultural Trade

The provisions of the Trade Bill affecting U.S. agricultural policy are similar in many ways to previous farm legislation. Like past farm bills, the current legislation enhances commodity supports, seeks to improve the efficiency of the Department of Agriculture and related trade agencies, and attempts to satisfy diverse interests by protecting export markets for specific products. In addition, like previous bills, the Trade Bill extends the President's authority to participate in the current round of multilateral trade negotiations under GATT. However, in one respect the Trade Bill is different from previous farm bills. It seeks to force progress toward a free market multilateral trade agreement by threatening to increase trade barriers unilaterally.

A. The Agricultural Provisions of the 1988 Trade Bill

The policy behind the agricultural provisions of the 1988 Trade Bill is to "provide agricultural commodities for export at competitive prices [and] support the principle of free and fair

57. The U.S. has announced that its negotiating position in the GATT Uruguay round is "freezing immediately then phas[ing] out all agricultural subsidies (export and domestic) by [the] year 2000." Echols, *The Uruguay Round: The Road Ahead Agricultural Trade* in The 1988 Trade Law: What it Affects and What it Means 315, 321 (1988). The United States remains committed to this position, but has recently assumed a more flexible stance—it is willing to examine short-term solutions should no long-term progress be made. *Hills Confirms Shift in U.S. Farm Position, Flexibility Toward Short-Term Subsidy Reform*, 6 Int'l Trade Rep. (BNA) 253 (Mar. 1, 1989).

58. The 1990 Farm Bill includes provisions furthering the policies of the 1985 Bill. *See* 1988 Trade Bill, 102 Stat. 1107, 1395.

trade in agricultural commodities . . . ."[59] These policies reflect Congressional concern with deteriorating export markets for U.S. agriculture, which plants between one-fourth and one-third of all cropland for export.[60] The Bill attempts to satisfy these policies in four different ways.

First, Congress allocated $2.5 billion during fiscal year 1989 to boost farm products exports. This is accomplished through the Export Enhancement Program (EEP)[61] which gives priority to foreign purchasers who have traditionally purchased U.S. agricultural commodities and products and who intend to increase their purchasing levels.[62] In essence, this program is similar to traditional commodity programs.[63] This is further evidence that Congress remains committed to artificially supporting U.S. agriculture through the use of commodity supports and subsidies under the guise of the EEP.

Second, several initiatives were established to "increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation."[64] These initia-

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59. H.R. CONF. REP. No. 576, 100th Cong., 2d Sess. 862, *reprinted in* 1988 U.S. CODE CONG. & ADMIN. NEWS 1547, 1895.

60. *See* Trade Bill, 102 stat. 1107, 1388. The agriculture provisions begin with congressional findings. *Id.* at 1388-89. Following these statistics is a list of factors contributing to the loss of United States agricultural exports because of changes in world agricultural markets. These factors include: the addition of new exporting nations, innovations in agricultural technology, increased use of export subsidies, the existence of barriers to agricultural trade, slowdown of world food demand due to cyclic economic factors, and the rapid build up of surplus stocks. *Id.* This section continues by stating that this bill is of vital importance to farmers in the U.S. and to the farm economy. Agriculture programs must be focused and work together in order to be effective. In order to achieve domestic goals for improving exports, Congress has found that the U.S. must also boost credit financing to importing nations and improve facilities so they will be better equipped to handle agricultural exports, particularly those from the U.S. Suggested areas of improvement for importing countries are better storage and processing facilities, and improved livestock production to enhance the demand for U.S. feed grains. Congress also found that increasing food aid programs will directly stimulate U.S. economy. *Id.*

61. The EEP was created by The Food Security Act of 1985. *See generally* 7 U.S.C. § 1736v (1986 Supp. IV). For a general discussion on the operation of this program, see text accompanying *supra* note 28.

62. H.R. CONF. REP. No. 100-576, 100th Cong., 2d Sess. 879, *reprinted in* 1988 U.S. CODE CONG. & ADMIN. NEWS 1547, 1912-13. The 1988 Trade Bill increases the amount allocated for increasing exports from $1.5 billion to $2.5 billion. 7 U.S.C.A. § 1736v (West Supp. 1988). Note also that this allocation may be increased to $4.5 billion under other provisions of the 1988 Trade Bill if GATT objectives are not satisfied. H.R. CONF. REP. No. 576, 100th Cong., 2d Sess. 876, *reprinted in* 1988 U.S. CODE CONG. & ADMIN. NEWS 1547, 1909.

63. *See supra* text accompanying note 27.

64. 7 U.S.C.A. § 5203 (West Supp. 1988). These initiatives were taken from the National Commission on Agricultural Trade and Export Policy, which found that "agricul-

tives basically provide for a better reporting system so the U.S. can send a uniform signal to other nations regarding U.S. agricultural policy.[65]

Third, other miscellaneous provisions in the Bill are

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tural trade policy and programs should be given a higher priority, both within and outside the Department of Agriculture and that the Department should be reorganized to reflect that priority." *Trade and International Policy Reform Act of 1987: Hearing on H.R. 3 Before the House Committee on Agriculture*, 100th Cong., 1st Sess. 109, 110 (1987) (Statement of Mr. Mendelowitz, Senior Associate Director of the National Security and International Affairs Division, General Accounting Office).

65. *See generally* 7 U.S.C.A. §§ 5231-5235 (West Supp. 1988). The first of these initiatives is a Long-Term Agricultural Trade Strategy Report which is to be prepared annually by the Secretary of Agriculture. The President is to submit this report to Congress along with the budget for each fiscal year. This report is to be prepared in consultation with the U.S. Trade Representative and is to include: (1) recommended policy goals in agricultural exports; (2) recommended Department of Agriculture spending. *Id.* at § 5231. Other items to be included in the report are: (1) a comparison with other countries of the current position of the U.S. in agricultural exports; (2) a detailed analysis of the U.S. position in regard to individual commodities; (3) new research developments that do or may have an impact on exports; (4) the position of the U.S. agricultural exports in non-market economies (such as the Soviet Union); (5) federal policy and programs and recommendations; (6) recommended Department of Agriculture spending on international programs; (7) recommended federal spending of other related agencies; (8) recommendations on any possible improvements in order to enhance exports. *Id.*

The second initiative is to establish Joint Development Assistance Agreements with certain trading partners. *Id.* at § 5233. This allows the U.S. to enter into agreements with its trading partners to develop importing countries in the ways mentioned in the previous initiatives.

The third initiative is a reorganization evaluation by the Secretary of Agriculture. *Id.* at § 5234. In effect, this is an assessment of how the new programs are working. The fourth initiative is an award of "contracting authority" to the Secretary of Agriculture. It gives the Secretary the authority to contract with private enterprises in order to enhance U.S. exports in any way. *Id.* at § 5235.

The final initiative establishes a new office to be created under the Foreign Agricultural Service—the Trade Assistance Office. The new office shall provide information and shall hear complaints of unfair trade practices in agricultural products. It's duties will also include the compilation of reports, information and statistics. This new office is to provide the earliest assessment of progress under the proposals. *Id.* at § 5216.

The Foreign Agricultural Service is also to be changed in several ways under the 1988 Trade Bill. More personnel are to be added and a small army of not less than 900 employees is to be maintained. There is also a step-up in ranking for a senior service officer. His title will be changed from Attache to Minister-Counselor, with accompanying privileges and duties. The total number of these Minister-Counselors may not exceed eight at any given time. *Id.* at § 5231.

The regular Foreign Service Attaches are to have an increased educative function aimed at producers. These Attaches are also to focus specifically on increasing foreign markets for U.S. goods. The Foreign Service "cooperator program" is to be expanded and is to receive priority for Commodity Credit Corp. funds and also surplus commodities. *Id.* For an additional summary of these and other major provisions of the 1988 Trade Bill, see 134 CONG. REC. H5541-5543 (daily ed. July 13, 1988) (statement of Rep. De La Garza); 134 CONG. REC. S4865-4866 (daily ed. April 27, 1988) (statement of Sen. Melcher).

designed to protect a wide variety of domestic producers and specific products.[66] These provisions represent a compromise between special interest groups and Congress' attempt to promote free trade. However, these provisions epitomize the conflict within the Trade Bill. A bill which is designed to promote free and fair trade should not include protectionist-type measures.

Fourth, and most important, the 1988 Trade Bill establishes an alternative path to follow with regard to U.S. agricultural exports in the event the GATT negotiations are unsuccessful. Section 4301 establishes an alternative in the event GATT does not reach a satisfactory multilateral trade agreement ensuring freer trade. If no progress toward a satisfactory agreement is made, the President shall submit a report on the status and progress toward achieving the GATT objectives.[67] If the report indicates that significant progress has not been made in GATT negotiations, additional export subsidies for domestic export producers in the form of a marketing loan program will be triggered.[68] If it is found that implementation of this program may harm further

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66. *See, e.g.*, 7 U.S.C.A. § 1446 (West Supp. 1988) (cotton and sunflower seeds); *id.* § 713a-14 (dairy products); *id.* §§ 1704, 1736t, 1707a (wood products); *id.* § 608c (milk); *id.* (Florida grown strawberries); *id.* § 620 (meat); *id.* § 624 (tobacco); 21 U.S.C.A. §§ 1401-1403 (West Supp. 1988) (pesticide measures).

67. Trade Bill, 102 stat. 1107, 1395-97. This section provides that if GATT has not reached an agreement by January 1, 1990 the President, by February 14, 1990

> (1) shall submit a report to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate describing the status of the GATT negotiations concerning agricultural trade, the progress that has been made to date in the negotiations, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in domestic farm programs that are likely to be necessary on conclusion of the negotiations; and
>
> (2) shall certify to Congress whether or not significant progress has been made in the negotiations.

Id.

68. These subsidies take the form of the nonrecourse loan treatment discussed *supra* note 17. Section 4301(b)(1) of the 1988 Trade Bill provides that:

> if the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days before the beginning of the marketing year for the 1990 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a), 1444e(a), and 1446(i) for each of the 1990 crops of wheat, feed grains, and soybeans at a level that is the lesser of- (A) the loan level determined for each such crop; or (B) the prevailing world market price for each such crop, as determined be the Secretary.

7 U.S.C.A. § 1446 (West Supp. 1988).

GATT negotiations, under the bill, the President has authority to waive or discontinue the marketing loan programs.[69]

However, if the marketing loan program is discontinued, Congress has provided for continued support of U.S. agricultural products by allocation of an additional $2 billion to the EEP.[70] If this alternative is triggered, up to $4.5 billion could be available for export enhancement programs.[71] It is Congress' intent that these provisions will "force further progress on an agricultural agreement in the Uruguay Round of multilateral trade negotiations."[72]

It is critical to note that while the United States is committed to free trade under its current agricultural export policies and GATT negotiations, these trade bill provisions undermine U.S. commitments by threatening to trigger nonmarket-oriented practices to force market-oriented goals. Instead of eliminating inherent inconsistencies in U.S. agricultural policies, the agricultural provisions of the 1988 Trade Bill arguably perpetuates them. Other provisions outside the specific agriculture related provisions may also serve to further theses inconsistencies.

B. *Section 301 Actions Affecting U.S. Agricultural Export Policy*

Section 301,[73] though not specifically aimed at agriculture, authorizes the President to take retaliatory actions in response to specific wrongs by nations negatively affecting U.S. agricultural export markets.[74] The President is authorized to use the

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69. *Id.*

70. *Id.* This section provides that:

> if the President exercises the authority to waive or discontinue the marketing loan program provided for in paragraph (2) or (3) of subsection (b), the President shall instruct the Secretary of Agriculture to make agricultural commodities and products acquired by the Commodity Credit Corporation equaling at least $2,000,000,000 in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced agricultural commodities and products for the purpose of making exports of such commodities and products available on the world market at competitive prices.

71. H.R. CONF. REP. No. 576, 100th Cong., 2d Sess. 876, *reprinted in* 1988 U.S. CODE CONG. & ADMIN. NEWS 1547, 1909.

72. *Id.*

73. Section 301 was created in the Trade Expansion Act of 1962, Pub. L. No. 98-473, § 121, 99 Stat. 155 (codified at 19 U.S.C. § 1864). It has undergone several amendments, the most recent of which is outlined in the 1988 Trade Bill.

74. Present law allows for retaliatory action for any "unjustifiable," "unreasonable," or "discriminatory foreign acts." *See generally* 19 U.S.C.A. § 2411 (West Supp. 1988).

EEP as a 301 retaliatory action.[75] Additionally, section 301 provides for retaliation against nations whose actions are "unfair and inequitable."[76] Such actions by other nations include excessive trade surpluses.

Unfair trade practices affecting the U.S. are prominent in the international market. More than any other type of U.S. trade, agricultural trade is vulnerable to the foreign unfair practices covered by section 301. There are two important reasons for this vulnerability. First, all nations strive to be as self-sufficient as their resources permit. Therefore, developing countries tend to increase production of agricultural products by creating incentives for farmers to produce at maximum output. These incentives take the form of trade restrictions or subsidies which in turn increase restrictions on international markets. Given the high level of agricultural trade restrictions worldwide, it is easy for the United States to find unfair or inequitable trade surpluses under section 301, which give rise to a cause of action.

Second, if an unwarranted trade practice is substantiated, agricultural production cannot adjust quickly to the time restraints in section 301.[77] Unlike industrial production, which can be halted almost instantly, agriculture is tied to a seasonal or yearly timetable. An unfair practice in agricultural trade may not be easily corrected within the time constraints set out by section 301.

In addition to these difficulties with the provisions of section 301, the use of section 301 retaliatory measures, such as import restrictions, tends to accentuate the inconsistencies of U.S. agricultural policy. A good example of this inconsistency is the recent $100 million sanction against the European Community

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75. The Senate amendment specifically allowed the President to use the Export Enhancement Program to offset foreign unfair trade practices. Before the 1988 Trade Bill became law, the Senate conceded that the President has authority under present law to use the EEP as a retaliatory measure under section 301. H.R. CONF. REP. 576, 100th Cong., 2d Sess. 562, *reprinted in* 1988 U.S. CONG. CODE & ADMIN. NEWS 1547, 1595.

76. 19 U.S.C.A. § 2411(d)(3) (West Supp. 1988). Explicit language allowing for automatic retaliation against "excessive trade surplus" countries was dropped from the proposed 301 amendments to the 1988 Trade Bill. Criticism was levied against such language because of its ambiguity and its suggestion that bilateral trade imbalances are necessarily improper. 134 CONG. REC. S4878 (daily ed. April 27, 1988) (letter from Cabinet to House Speaker Wright). However, the language "unfair and inequitable" are equally ambiguous and could result in retaliatory actions against countries with excessive trade surpluses.

77. The 1988 Trade Bill provides that the USTR must implement retaliatory action within 180 days. 19 U.S.C.A. § 2415(a)(2)(A) (West Supp. 1988).

for refusing to allow importation of American hormone-injected beef.[78] This sanction was imposed despite U.S. commitment to multilateral reduction in agricultural trade restrictions.[79] Despite the potential for undermining multilateral agreements, section 301 remains the best unilateral alternative available to the U.S. It allows the U.S. to deal effectively with countries which practice unfair trade, without substantially affecting U.S. trade with other countries. In light of GATT's weak enforcement and settlement provisions, Section 301 should remain in effect because it represents the least restrictive and most effective method to reduce unfair trade practices.

III. The Future of U.S. Agriculture Export Policy

The general aims of U.S agricultural policies are the stabilization of markets, income support, orientation of production and the modernization of farming.[80] Agriculture export policies must conform to these aims since domestic and foreign policies concerning U.S. agriculture are inseparable. All of these aims must be considered together in order for a workable agricultural export policy to develop. Efforts in achieving any one of these goals, without considering the effect on the other three, may hin-

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78. *U.S. Could Choose to Add Another Retaliatory Layer to Hormone Ban Dispute, Holmer Says*, 6 Int'l Trade Rep. (BNA) 37 (Jan. 11, 1989). It should be noted that the U.S. retaliated only after repeated trade violations committed by the European Community. For a discussion of these violations, *see generally* 133 Cong. Rec. H5055-57 (daily ed. June 16, 1987) (statement of Rep. Breutter). Other U.S. enforcement attempts under section 301 include: USTR Inv. 301-53 (differential export tax on raw and processed Argentinian soybeans); USTR Inv. 301-54 (quantitative restrictions on Portugese soybeans and feedgrains and imposition of high variable levies on Spanish corn and sorghum); USTR Inv. 301-55 (restrictions on unprocessed Canadian salmon and herring); USTR Inv. 301-59 (quantitative restrictions on importation, licensing and tariffs of Indian almonds); USTR Inv. 301-64 (restrictions on Korean made cigarettes); USTR Inv. (restrictive import licensing of Korean beef); USTR Inv. 301-66 (import restrictions on Japanese citrus); USTR Inv. 301-67 (restrictions on Korean liquors).

79. Deputy U.S. Trade Representative Alan Holmer indicated that the U.S./E.C. hormone ban dispute will not affect ongoing GATT negotiations. This comment disagrees. The U.S./E.C. hormone dispute has escalated into a trade war. Any bilateral trade war will adversely affect multilateral agreements. Whether trade is restricted by traditional commodity programs or a unilateral 301 restriction resulting in a trade war, it will inevitably affect world trade.

80. It should be noted that these are the general aims of most countries. The differences in the agricultural policies are differences in degree rather than in the kind of policies. These broad policies, which have their counterparts in all industrial market economies, are not the ones that directly influence current production, prices, consumption and the flow of international trade in farm products. The specific goals to satisfy the broad aims achieve this.

der progression in achieving all of these goals. This has been the effect of past U.S agricultural trade legislation; it is also the effect of the 1988 Trade Bill.

Most are agreed that these broad objectives are the true long-range goals of U.S. agriculture. However, with respect to the specific goals needed to accomplish the long-range objectives there is no consensus. In fact, many of the specific goals attempt to satisfy one objective, at the expense of another. In order to fully develop U.S. agricultural export competitiveness and satisfy the broad aims of U.S. agricultural policy, three specific recommendations are suggested.

First, domestic farm programs should be made more market-oriented. While trade in industrial products has been substantially liberalized in recent decades, little progress has been made in reducing trade barriers for farm products.[81] The current administration's policy includes trade liberalization. This is evident in both its commitment to GATT negotiations and its recent bilateral free trade agreement with Canada.[82] However, much work remains in reducing commodity supports and trade barriers in the U.S. The 1988 Trade Bill does little to reduce these restrictions; in fact, it provides potential additions to these restrictions by threatening a blanket increase for farm supports in the event GATT negotiations are unsuccessful. In promulgating the 1990 Farm Bill Congrèss should make a specific finding that market-oriented legislation, which simultaneously supports market intervention through subsidies, is unworkable. They should also find that although necessary during a transition period towards a more market-oriented approach, trade barriers in the form of farm supports should be substantially reduced over time.

Second, the United States should commit to GATT without attempting to force negotiation progress by threatening a blanket increase in trade barriers introduced by the 1988 Trade Bill. Countries of the world should move together in achieving more market-oriented policies for agriculture. Today, virtually all nations seek to solve their agricultural problems with trade restric-

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81. Many justify these barriers because of agriculture's vulnerability to unpredictable natural forces and its dependence on erratic international markets. *See, e.g.*, W. GALSTON, A TOUGH ROW TO HOE: THE 1985 FARM BILL AND BEYOND 115 (1985).

82. *See supra* text accompanying notes 40-41. Although, it is not clear how much effect this agreement will have on world agricultural trade, it is certainly a step in the right direction.

tions in some form. However, a globally-oriented approach to agricultural trade can reduce these restrictions. Future U.S. policy must incorporate the notion that U.S. agriculture is inextricably linked to world economies. While bilateral agreements do not have as great an impact as a multilateral agreement, they remain the best alternative to foster a reduction in trade barriers.[83] Agreements, such as the U.S.-Canada Free Trade Agreement should be encouraged with other countries. U.S. agriculture cannot reach its full export potential until it reduces protectionist measures and adopts a more global perspective. The GATT provides the only forum where multilateral trade barriers can be reduced. Until GATT resolves its ineffectiveness, the U.S. should make continued use of section 301 to ensure fair trade practices. Threatening blanket trade restrictions, rather than restrictions aimed at specific trade violations, will not ultimately accomplish an overall reduction in trade barriers.

Third, during the inevitable transition period in moving towards a more market-oriented approach, there should be no additional trade barriers introduced, nor should existing barriers be unilaterally broadened. The U.S. has adopted this notion as one of its primary objectives as a member of the Uruguay Round of the GATT negotiations.[84] The 1988 Trade Bill represents a compromise between those interested in short-term agricultural relief and those pushing for sustainable long-term growth in U.S. agriculture export markets. However, the result of this compromise is a bill that takes a step in the wrong direction by implementing a number of unilateral protections, increasing funding

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83. Canadian Prime Minister Brian Mulroney suggested that the U.S.-Canada free trade agreement could serve as a model for improvements in the GATT. *Participants See Little Hope for Accord on Major Issues Facing GATT Trade Review*, 5 Int'l Trade Rep. (BNA) 1600 (Dec. 7, 1988).

84. Secretary of Agriculture, Richard E. Lyng, in his address before the House Agricultural Committee stated that

> [t]he primary U.S. Objective in the Uruguay Round is to create an environment for the United States and all countries to *compete fairly* for the world's commerce. We are seeking to accomplish this in a number of ways. To improve market access, we are seeking commitments to apply no new import barriers and to eliminate existing nontariff barriers by a scheduled date. To improve the competitive environment, we are seeking to freeze current subsidies that affect trade, followed by a phased reduction of such subsidies to zero by a scheduled date.

Trade and International Policy Reform Act of 1987: Hearing on H.R. 3 Before the House Committee on Agriculture, 100th Cong., 1st Sess. 81, 86 (1987).

for subsidy programs and increasing the potential for trade wars.[85]

It should be recognized that it is not possible to move to more market-oriented policies all at once. The U.S. commitment to remove all trade barriers by the year 2000 is unrealistic.[86] Whether the U.S. moves to a market-oriented approach in a short period of time or over a relatively long period, certain transitional costs will be incurred. These include short-run losses in farm income, loss in the value of assets, and the cost of adjustment to alternative employment for those farmers who are displaced as trade protection is reduced.[87]

That there will be losses in farm income and assets in the short run is inescapable. However, in the long run, the gradual reduction of trade restrictions will likely compensate for these short run losses. The chances of moving toward a more market-oriented approach will largely depend on whether U.S. policy-makers can adopt a two prong solution to minimize short-term losses. First, Congress should provide programs that channel relief directly to financially distressed farmers. Second, Congress should make it easier for farmers to find non-farm jobs.[88]

IV. Conclusion

Free trade is an explicit goal of U.S. agricultural trade policy. It is based on the belief that liberal trade fosters the most efficient use of agricultural resources in a world of rising population and increasing interdependence.[89] All countries benefit if each nation produces for the world market those products it produces best and most efficiently. Free market competition offers the best way to achieve solid, sustainable and long term growth for both the United States and world agricultural systems. Mar-

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85. *See supra* note 79.

86. It is important to recognize that a blanket approach to cutting out all trade barriers is not achievable in the near future. But, progress toward this end can and needs to be made. This is the explicit purpose of the GATT negotiations.

87. *See* D. Johnson, K Hemmi & P. Landinois, Agricultural Policy and Trade 37 (1985).

88. This goal does not recognize the goal of preserving the small family farm. However, legislative attempts at preserving the small farm have been expensive and ineffective. In 1935 there were 6.8 million farms in the U.S., compared to 2.3 million in 1985. This represents a dramatic drop in the percent of Americans who lived on farms—25% in 1935 and only 2% in 1985. Zinn & Cate, *Changing U.S. Agriculture: Implications for Farm Policy*, CRS Rev., May 1987, at 3.

89. This is especially true since most of the increasing population comes from developing countries.

ket forces and not governments should be the primary influence on agricultural trade. When government action is necessary to minimize the problems of financially distressed farmers or unfair trade practices abroad, such action should be aimed directly at those problems in order to minimize its negative effect on world trade.

For the last decade U.S. agricultural policy has had a dual personality; it strives to be more market-oriented, but supports market interference through subsidies. In enacting the 1988 Trade Bill, Congress had an opportunity to reduce the inconsistencies within its agricultural trade policies. However, the bill increased these inconsistencies by allowing for more artificial interference, which will accentuate distortions in world trade markets. This represents a step in the wrong direction.

The Uruguay Round of GATT negotiations provides the next opportunity for the U.S. to revitalize its commitment toward a more market-oriented approach. It will be an important forum for multilateral progress in agriculture trade over the next several years. In the long run, this forum can provide the most productive relief to world agricultural trade and to the world's farmers.

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