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- Public Affairs - International Trade -

FARMING THE MAILBOX:

U.S. FEDERAL AND STATE SUBSIDIES TO AGRICULTURE

STUDY PREPARED FOR

DAIRY FARMERS OF CANADA

by

Grey, Clark, Shih and Associates, Limited
Ottawa, Ontario, Canada

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Précis:

Grey, Clark, Shih and Associates Ltd. (GCS) has been analyzing U.S. farm subsidy programs for Dairy Farmers of Canada since 1990. This report is the latest update, which focuses on changes introduced by the 2008 Farm Bill.[1] We have updated and expanded on our earlier studies and commented on their implications.

GCS does not criticize the benefit and support which the U.S. provides to their farmers and ranchers. However, this support clearly has production and trade effects. The GCS report will help farm operators in Canada and other countries to identify support and risk management tools which might benefit them if their government offered similar programs. This is particularly important when comparing risk management programs.

This analysis also provides information to governments on what they should be doing to ensure farmers and ranchers are able to continue providing arguably the most important of basic human needs; indeed, meeting one of the basic human rights of their citizens.

The U.S. continues to provide massive (sometimes underreported to the WTO) support at the federal, state and local government level to U.S. agriculture. U.S. dairy producers are among the principal beneficiaries of this support through a complex web of direct support and indirect programs and measures.

Indirect support to U.S. dairy production comes through infrastructure (such as irrigation), services, and general program benefits including export credits, nutrition, food aid and loan and granted loan programs. In addition, there are very substantial pass through benefits from feed grain production to livestock that benefit dairy cattle and dairy production.

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[1] The Food, Conservation, and Energy Act of 2008

In total, the value of U.S. Department of Agriculture programs to the U.S. agriculture industry at US$180.8 billion in 2009. Based on dairy's roughly 10.7%[2] share of U.S. agricultural sales, results in benefits of some US$19.3 billion to U.S. dairy farmers.

We estimate that the total direct and indirect benefit to U.S. dairy production through U.S. federal, state and local programs in fiscal year 2009 was US$12.00 per hundred weight (cwt) of milk produced or C$31.11 per hectolitre. That includes aggregate of the U.S. Department of Agriculture Program Levels, irrigation infrastructure support and undeclared below market price/cost water and power for irrigation systems as well as the ever expanding biomass energy incentive.

Converting this support into metric, we estimate that this support represents C$31.11 in 2009. Our study after the previous Farm Bill (2002) estimated support on this basis was C$25.90/hl for FY 2003.

Below is a chart which illustrates the levels of support:

Summary of U.S. Subsidies to Dairy
(2009)

	Per cwt		**Per hl**	
	US$	**C$**	**US$**	**C$**
Federal	10.56	12.06	23.97	27.37
State/Local	1.44	1.65	3.27	3.74
Total	12.00	13.70	27.24	31.11

The estimated US$12.00/cwt support to U.S. dairy production in 2009 was equivalent to 53% of U.S. cost of production of milk or 94% of the market returns for milk as reported by USDA.

[2] All U.S. agricultural commodities in 2009 were valued at US$290.5 billion at the farm gate, while the total value of cash receipts from the sale of all U.S. dairy production in 2009 was US$31.5 billion.

The subsidies to U.S. dairy producers are essentially equivalent to revenue from the market place. This generous support enables U.S. producers to sell below their fully absorbed cost of production, by insulating them from the need to earn a profit from the market. The support also permits insulation from international price pressures.

Through the Dairy Export Incentive Program (DEIP) benefits – which were reintroduced and enriched in 2009 – the U.S. has also helped increase U.S. dairy exports. USDA reports that shipments of U.S. dairy products to Canada soared by 527% from US$71.3 million in 1995 to US$375 million in 2008. Globally, U.S. exports of dairy products have increased from US$778 million in 1995 to US$3.752 billion in 2008. Exports in 2009 fell 16% in volume and 40% in value. There has been a sharp increase in 2010 – 72% to the end of September as compared to the same period of 2009.

The subsidies also helped American dairy producers to survive from the devastating market conditions of recent very difficult years – including the disastrous experience of 2009. The Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics, said that in 2009, there was a decline in the value of milk production of 13% from 2008.

The U.S. dairy situation appears to have improved in 2010 – but recently the optimum has been reduced, by a combination of weaker than expected improvements in market returns to dairy farmers and rising feed costs.

Overall, USDA provides the support to U.S. agriculture which is production and trade distorting. This study looks at how programs operate and assesses them in the context of U.S. WTO obligations and reporting. But similar benefits are available to much of U.S. agriculture and it has traditionally been very generous support.

The 2008 Farm Bill is like earlier Farm Bills. The bill was developed in an economic environment featuring two consecutive years of record high farm incomes and very high market prices, by historical standards. This was especially the case for grains, oilseeds and dairy. It provides additional avenues and more scope for support and risk elimination for U.S. farmers.

But the complex new bill adds to existing layers of U.S. farm support by increasing the range of crops receiving substantial support. The Farm Bill raised the target prices for countercyclical payments (CCPs), raised marketing loan rates for loan deficiency payments; created new countercyclical and market loan programs for pulses, oilseeds and chickpeas and revised and enriched dairy support measures. U.S. farmers may also participate in revenue assurance payments (the Average Crop Revenue Election program); providing greater potential support for dairy farmers when prices for milk drop or when prices for feed rise.

U.S. agriculture also benefitted from stimulus spending under the American Recovery and Reinvestment Act of 2009 which injected US$29 billion which created US$52 billion in additional spending. It is important to understand that the Congress disguises support so actual budgeted dollars have a multiple effect on spending. One example is marketing loans which are made and repaid within the fiscal year. These do not show as expenditures because they are repaid in the period.

State and Local Subsidies are Significant

State and local expenditures on agriculture in 2009 were estimated to be US$3.2 billion. U.S. state and local government support in 2009 to dairy production amounted to US$2.7 billion or about US$1.44/cwt. In addition, state and local governments provide very extensive and important support through irrigation subsidies in the form of below-market and below-cost price water and electrical power provided for agricultural use although it appears to be at less than 10% of commercial rates, to operate the irrigation systems.

The subsidy exists in the form of water for irrigation provided to producers at prices below the prevailing market price. The value of the subsidy is the difference between price charged to agricultural producers and the price charged to other users such as industrial or residential consumers.

The total value of irrigation subsidies provided by state and local government has been estimated at between US$10 billion and US$33 billion. Since our last study in FY 2003, it appears that water use has increased 12%. In addition, we have uncovered evidence that water districts received heavily subsidized electricity to pump the water through the irrigation systems. We did not increase our estimates of irrigation subsidies to reflect this increased usage or the subsidized power component.

The provision of low-cost water to producers by state and local governments also constitutes a subsidy for purposes of the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture and must be included in the U.S. AMS.

In dollar terms, the total value of support provided to agriculture by state and local governments in 2009 is estimated to be US$3.2 billion while the total value of direct state and local government support to dairy production and indirect support allocated to dairy production is US$419 million.

Support provided through irrigation subsidies is direct but non-dairy-specific support which is also allocated on the basis of dairy's share of the total value of state agricultural production for those states which are the principal beneficiaries of the irrigation programs. In 2009, the estimated total value of irrigation subsidies provided to agriculture by state and local governments was US$21.5 billion. On this basis, the total amount of irrigation subsidies allocated to dairy production in 2009 is US$2.3 billion.

Therefore, the total value of support to dairy production provided by state and local governments is US$2.7 billion. Based on total U.S. milk production in 2009 of 189 billion lbs, total state and local government support per cwt was approximately US$1.44.

The Politics of Farm Subsidies

Farm Bill subsidies, particularly those to feed grain aid to biofuels – which can have very distortive market effects – have long been recognized. So has the way that these benefits stretch, bend and break international trade rules.

Former Deputy U.S. Secretary of Agriculture, Charles Connor, noted:

> "I think more fundamentally even, this Farm Bill just heads in the wrong direction in terms of our international obligations. It's no secret our current farm programs under current law have come under enormous fire for their adverse impact on developing regions of the world and their ability to increase their agricultural production because they can't compete against the farm subsidies of the developed world. . ."

Former U.S. Agriculture Secretary, Dan Glickman, put it more bluntly, telling the New York Times that farming has "become largely an income transfer program," with the government underwriting rural businesses and requiring very little in return.

But there is a political reality. Farmers vote.

The New York Times noted:

> "… one thing that the people who grow the food and the people who write the checks agree on is that if the government were to suddenly disengage itself from its monumental entanglement with rural America, upwards of half of the 1.6 million farmers in the United States who now receive some form of federal assistance would go out of business."

The stimulus package under the American Recovery and Reinvestment Act of 2009 (ARRA) for Agriculture is also very attractive. Some US$28 billion (3.5%) of the stimulus package was appropriated to the USDA. The Act provides US$19.7 billion to increase the monthly amount of nutrition assistance to 31.8 million people. Dairy is a significant beneficiary from nutrition programs.

This study raises important questions about why other WTO members should need to restructure and rationalize their farm sectors because of the effects of disruptive and devastating U.S. subsidies, competitive currency devaluations or its non-tariff protection like U.S. Mandatory

Country of Origin Labelling (M-COOL). The real need is to discipline the “beggar thy neighbor” policies which lead to massive disruptive U.S. (and E.U.) farm subsidies which drive prices down in world markets.

World Trade Organization rules have not been effectively enforced. Nor did the WTO take account of the very fundamental, subsistence nature of agriculture in many developing countries. Small farmers in these countries are totally vulnerable to cheap import competition. Small farmers in developing countries cannot be treated the same way as the agribusiness and corporate farmers which dominate agriculture in the USA and will do so increasingly in Europe.

The level of this trade-distorting farm support will no doubt make it difficult for other countries to engage in meaningful market access negotiations unless and until the production distorting programs of the USA (and the E.U.) are brought under control. (This report also addresses concerns about E.U. support and proposed changes for the post-2013 period. This E.U. report will offset proposed tariff reductions in the comatose WTO Doha Round and will continue to frustrate bilaterally negotiated improved access to E.U. markets which now encompass 27 countries.)

U.S. AGRICULTURAL SUBSIDIES STUDY

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PART II – STATE GOVERNMENT PROGRAMS

PART I

'I want to write a Farm Bill that's good for Agriculture. If someone wants to sue us, we've got a lot of lawyers in Washington.' [1]

Representative Collin C. Peterson,
Chair of the Agriculture Committee
of the U.S. House of Representatives

INTRODUCTION AND SUMMARY

Grey, Clark, Shih and Associates, Limited (GCS) was retained by the Dairy Farmers of Canada (DFC) to quantify and analyze, from publicly available information, all support provided to U.S. agriculture and dairy producers by federal, state and local governments.

This study updates and expands upon the previous studies of support to U.S. agriculture prepared by GCS in 1990, 1998, 2003 and 2005.[2] We have reviewed all government support provided directly and indirectly to the full range of agricultural production and processing in the USA, from inputs at the farm or ranch level to the point of sale to retailers. We have also addressed the US$28 billion in support provided to agriculture through the ARRA (American Recovery and Reinvestment Act of 2009) which according to USDA supported US$52 billion in expenditures.[3] However, while the complete range of direct and indirect measures was reviewed, not all benefits flowing from state and federal programs were included in our calculations of benefits, either because we did not have adequate information to estimate particular program benefits or because we considered the benefits to be too removed from dairy farming.

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1 "Farm Bill divides lawmakers, President Bush", Associated Press, by Libby Quaid, January 14, 2007

2 In 1990, GCS prepared a study entitled *Subsidies to the Dairy Farming and Processing Industries in the USA.* In this study, GCS identified and quantified all subsidies and benefits available to dairy farmers and processors in the U.S. states at the federal, state and local government level from inputs utilized in milk production to point of sale to the retailer. In 1998, GCS prepared a follow-up 1998 study also entitled *Subsidies to the Dairy Farming and Processing Industries in the USA.* In this study, GCS updated the information set out in the 1990 study, in the context of the 1996 Farm Bill and revised programs. The 2003 report was entitled *WTO Consistency of U.S. and New Zealand Agricultural Practices* and the 2005 report was entitled *U.S. Federal and State Agricultural Support*.

3 Overview of USDA Recovery Act Funds, http://www.usda.gov/wps/portal/usda/arrapie?navid=USDA_ARRA_OVEW

PART I

Total Value of U.S. support for Dairy Production

The Dairy Farmers of Canada asked GCS to calculate the value of total direct and indirect U.S. support to dairy producers per hectolitre of milk produced in the United States. We have made separate calculations in Parts I and II of the report and provided aggregate estimates in the summary section. In previous reports GCS calculated the total value of U.S. support to dairy per hundredweight of milk produced. For comparison purposes, the total value of U.S. support to the dairy sector in 2009 has been calculated per hectolitre and per hundredweight (cwt).

The support provided to U.S. agriculture and to dairy production is comprised of direct support and indirect support. Indirect support includes support to U.S. dairy production through infrastructure, services, and general program benefits including export credits, nutrition, food aid and loan and granted loan programs. In addition, the very substantial benefits to feed grain production and to livestock producers also benefit dairy cattle and dairy production.

We have applied a similar methodology to that we used in the 1998 study to determine the benefits to U.S. dairy producers. Unless otherwise stated, quantified benefits have been allocated to dairy in the same proportion that dairy represents in the total value of U.S. farm production. In the 1998 study, 1997 program budgets were multiplied by 10.32% (0.1032), dairy's percentage of total agricultural receipts. For 2009, we used 10.7%. Because precise data on actual benefits to dairy is not available, this methodology may overstate or understate actual benefits to dairy, but it appears to be a reasonable method.

The USDA Economic Research Service reported the total value of cash receipts from the sale of all U.S. dairy production in 2009 as $31.5 billion and the total value of cash receipts from the sale of all U.S. agricultural commodities as $290.5 billion.[4] Based on these figures, we have determined that U.S. dairy represents approximately 10.7% of total U.S. agricultural production.

[4] Economic Research Service (ERS): http://www.ers.usda.gov/briefing/farmincome/data/cr_t3.htm; October 27, 2004

PART I

However, the simple average may understate benefit to dairy. While here were some attempts to remedy the situation in the 2008 Farm Bill, nearly 50% of U.S. agricultural production (i.e., fruits, vegetables and nuts) have not benefited in any significant way from USDA support. Indeed, in California more than 44% of federal crop subsidies went to cotton and rice growers despite representing only 3% of the state's total agricultural output in 2008, according to a report from the Environmental Working Group.[5] Therefore, our methodology likely understates the benefits to dairy.

We estimate that the total value of U.S. Federal support for U.S. dairy in 2009 to be the sum of the total value of support provided under dairy specific programs less the value of selected programs that offer no direct or indirect support to U.S. dairy production plus 10.7% of the total of the remaining USDA program level expenditures for 2009 plus 10.7% of total budgetary resources available for water management programs of the Department of Interior, Bureau of Reclamation.

We did not estimate the price/income support benefits under any programs. This understates benefits to U.S. agriculture and to dairy producers but we do not have precise data on such supports.

We estimate that the total benefit to U.S. dairy production provided through U.S. Federal, State and local programs in FY 2009 was US$12.00 per cwt or $31.11 CAD[6] per hl. Total value of U.S. Federal Government subsidies and support to agriculture is the aggregate of the USDA Program Levels, irrigation infrastructure support and undeclared below market price/cost water and the biomass energy incentive.

Since our last study, support in Canadian dollars per hl[7] through U.S. Federal and State subsidies have increased from $25.90CAD per hectolitre in FY 2003 following the 2002 Farm Bill[8] to $31.11CAD[9] in 2009 under the 2008 Farm Bill.[10]

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5 "Farm Subsidies in California: Skewed Priorities and Gross Inequities", Kari Hamerschlag
6 Unless otherwise indicted all values are in U.S. dollars.
7 Using the Bank of Canada average exchange rate for 2003 (1.40146175)
8 Farm Security and Rural Investment Act of 2002 (2002 Farm Bill)

Summary of U.S. Subsidies to Dairy
(2009)

	Per cwt		Per hl	
	US$	**CAD$**	**US$**	**CAD$**
Federal	10.56	12.06	23.97	27.37
State/Local	1.44	1.65	3.27	3.74
Total	12.00	13.70	27.24	31.11

These values were calculated as follows:

- In 2009, the estimated total value of USDA programs was US$180,829,000,000. The allocation to dairy products $19,348,703,000 or $10.23 cwt. To this must be added for the biomass program and for dairy's share for irrigation infrastructure support from the Department of the Interior budget.[11]
- The value of support to irrigation infrastructure provided by the Department of the Interior was $1,798,000,000 of which $192,386,000 was allocated to dairy. This is equivalent to $ 0.1015 per cwt.
- The value of Biomass subsides was US$4,770,000,000 of which US$510,390,000, or $0.27 per cwt was allocated to dairy production.
- State and local government support, including irrigation water subsidies is US$24,756,226,716 of which US$2,719,850,228 was allocated to dairy. This represents US$ 1.44 per cwt

In 2009, total U.S. production of milk was 189,370,000,000 lbs.[12] or 1,893,700,000 cwt. The support values were divided by this volume to develop per cwt values. The per cwt values were converted to per hectolitre (hl) by multiplying by 2.27.

We employed a conservative methodology to determine the total value of federal support to be allocated to dairy production in 2009.

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9 Using the Bank of Canada average exchange rate for 2009 (1.1420)
10 The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill)
11 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 137
12 Using the Bank of Canada average exchange rate for 2009 (1.1420)

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We believe that our estimates may understate benefits to the dairy sector because:

- We did not estimate price support benefits. Nor did we use as a base the US$5 billion plus reported by USDA in recent years as dairy's share of the U.S AMS.
- The USA reported to the WTO that for 2007 that the dairy sector received the greatest share of its Aggregate Measure of Support (AMS) spending at $5,016.5 billion (roughly the same $5,044.1 billion in 2000). This was about 26% of 2007 AMS spending by the USA. Throughout the period 1995-2007, the U.S. dairy sector had the greatest share of AMS.
- While the 2009 AMS has not been reported to the WTO yet and probably will not be for several years. We expect it will reflect quite large benefits to dairy.
- Our allocation methodology was based on dairy's share of gross farm receipts without adjusting for the 50% of U.S. agriculture which does not benefit from subsidies.
- We did not include in our analysis of export subsidies benefits of *de facto* Article 9.1(c) export subsidies in order to avoid double counting.

In order to understand the dynamics and pervasive influence of undisciplined domestic support, we have compared it to costs of production and the farm gate prices for milk in the USA.

	U.S. Cost of Production for Milk	**U.S. Revenue from Milk**	**Net Loss**
	per cwt	per cwt	per cwt
USA	$22.73	$12.81	$7.01

2009 Support to Dairy as a Percentage

	COP	**Farm Gate Price**	**Net Loss**[13]
USA	53%	94%	171%

[13] The loss data do not compute because there is non- market revenue, other than subsidies, i.e., for culled cows which do not permit us simply to deduct farm gate revenues from costs.

PART I

The estimated $12.00/cwt support to U.S. dairy production in 2009 was equivalent to:

- 53% of cost of production
- 94% of the market returns for milk
- 1.71 times the net loss per cwt

The subsidies to U.S. dairy producers essentially match revenue from the market place. They enable U.S. producers to sell below their fully absorbed cost of production, by insulating them from the need to earn a profit from the market as well as from international price pressures. Supplemented by the Dairy Export Incentive Program (DEIP) benefits which were reintroduced and enriched in 2009, the U.S. Treasury has facilitated U.S. dairy exports and provoked the E.U. to re-introduce export restrictions for dairy, which caused great concern in the market in 2009[14].

Ostensibly domestic subsidies to the U.S. dairy sector benefit U.S. milk exports because they permit exports at below cost of production. The domestic support to dairy through MILC and similar programs arguably provide WTO Agreement on Agriculture Article 9.1(c) benefits to milk exports, which in accordance with the precedent set by *Canada – Dairy* and *E.C. – Sugar* are export subsidies. U.S. dairy exports have increased by 382% from $778 million from 1995 to 2009.[15] U.S. exports of dairy products to Canada increased from $71,345 million in 1995 to $375,845 million in 2008, or by 527%.[16] And the subsidies allow the U.S. dairy producers to survive until market conditions improve. Market conditions in 2009 were devastating for U.S.

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14 The Wall Street Journal reported:

> "Less than six months into his new administration, President Barack Obama has already managed to spark a trade war with Mexico over trucking. Protectionist measures like quotas on Chinese tires could be on the cards, too. Now, newly expanded milk subsidies also threaten both America's reputation and its trade leadership.
>
> Last month the U.S. Secretary of Agriculture, Tom Vilsack, implemented the Dairy Export Incentive Program, or DEIP. Under the program, re-authorized by Congress in last year's Farm Bill, the U.S. Department of Agriculture pays subsidies -- euphemistically described as "bonuses" -- to cover the difference between American farmers' cost of production and prevailing international prices."
>
> U.S. Exports to Canada (1995-2009), U.S. Department of Agriculture, Foreign Agricultural Service, Global Agricultural Trade System (GATS)

15 U.S. Exports to Canada (1995-2009), U.S. Department of Agriculture, Foreign Agricultural Service, Global Agricultural Trade System (GATS)

16 Ibid.

dairy farmers.[17] FAS based on Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics suggest January to November 2009, a year of serious economic contraction, that there was a decline in the value of milk production of 13% as compared to the same period of 2008.

USDA recently reported that they expected dairy farm revenue to increase 26.2 % in 2010 to $77.1 billion. These earnings will be $12.3 billion above the 10 year average.[18] These improved fortunes were due in large a part to better results for dairy farmers – who expect a $3.16/cwt increase in wholesale price – about 25% above last year. Productivity has increased and, notwithstanding a herd reduction, the volume of shipments will increase by 1.4%.

USDA says the strong recovery in dairy receipts will result in a 45% increase in average income for farms in the Northern Crescent – which USDA defines as all or part of 13 states along the Canadian border from Minnesota to New England where dairy is an important commodity. And these good fortunes are occurring because of a strong recovery in dairy exports notwithstanding strong competition from Australia and New Zealand.

How does this compare to Canada where farm income receipts are in free fall?

Overall, USDA data suggests that the support available to the U.S. dairy industry is both production and trade distorting. But similar benefits are available to much of U.S. agriculture and it has traditionally been very generous support. However, our objective is to analyze the direct and indirect benefits to U.S. dairy producers.

Methodology

This study is comprised of two Parts. In Part I, we review support provided under U.S. Federal Government agricultural programs and Federal-State government shared cost programs. In Part

17 "Global Food Crisis 2010 Means Financial Armageddon", The Market Oracle, Eric deCarbonnel, December 25, 2009

18 See "Higher dairy farm receipts drive US farm income recovery", Dairy Markets, September 8, 2010

II of this study, support under U.S. State and local government agricultural programs is reviewed. Other sub-national government support is also captured in Part II.

This study analyzes and quantifies all publicly available information on federal and state programs that directly or indirectly support U.S. agriculture. These include domestic support programs, export subsidy programs, conservation programs, crop and livestock gross margin, insurance programs, risk management programs, disaster relief assistance programs, loan programs, crop support and livestock support programs as well as renewable fuels incentives and subsidies and irrigation programs.

For each reviewed program or support activity, this study provides the following:

(a) a brief description of the program;
(b) an assessment of the WTO compatibility of the program
(c) expenditures made or support provided under the program; and
(d) the portion of such support allocated to U.S. dairy production.

The objective of this study is to determine:

(a) the total value of current and projected support;

(b) the total amount of support and subsidies directly and indirectly related to dairy production;

(c) the estimated benefits of such support per hectolitre of milk produced in the USA; and

(d) the relationship between internal support and subsidies and import tariffs.

PART I

Part I of this study, which reviews all agricultural support programs maintained by the U.S. Federal Government, is divided into the following Sections:

I. Overview
II. Domestic Support
III. Export Subsidies
IV. International Food Assistance
V. Agricultural Marketing Services
VI. Conservation Programs
VII. Crop Insurance
VIII. Rural Development
IX. Animal and Plant Health Inspection Services (APHIS)
X. Food Safety and Inspection
XI. Food and Nutrition Services
XII. Grain Inspection, Packers and Stockyard Administration (GIPSA)
XIII. Forest Service
XIV. Research, Education and Economics
XV. Irrigation Infrastructure
XVI. Biomass Energy Tax Incentives

We have addressed the major programs and many but not all of the component parts, i.e., in Part I in the case of the Commodity Credit Corporation we reviewed major programs but not all of the grant and loan problems which the CCC administers. We have not analyzed certain benefits specific to cotton and peanuts as they are too remote to dairy. Arguably, we could have included these programs because our allocation methodology was based on average participation, but our desire to pursue a conservative approach argued that we should not. In some other cases, where the interest and benefits to the dairy sector are indirect, we have listed the various programs administered by a sub agency with their budget codes and analyzed the overall program. We have reviewed all activities, but in some cases we did not specifically analyze or address each of the component parts. This was done to avoid repetition and to try to make a very complex report more reader-friendly.

PART I

The decision to divide Part I of this study into a number of Sections, including specific sections on Domestic Support and Export Subsidies, should not be taken as an indication that support provided to U.S. agriculture considered in other sections of this study are not subsidies. All of the programs reviewed provide subsidies or support of some kind. The decision to sub-divide the study, and to select individual programs for analysis, as noted above, was taken to try to make the study more reader-friendly and not to indicate that programs not selected or designated are outside the scope of the sections on Domestic Support and Export Subsidies or that they do not provide important support and subsidies to U.S. agriculture.

Use of the phrase subsidies and support means the full range of all programs and activities related to financial and other support undertaken or provided by governments in the USA.

U.S. Farm Bill Policies

Clearly, it is Government support and not market forces which influence production decisions and farm income in the USA. And this is not likely to change. In 2009, after Congress rejected President Obama's efforts to bring some discipline to the system reflecting the record high prices for many farm products, the New York Times explained:

> "Few pieces of legislation generate the level of public scorn consistently heaped upon the farm bill.
>
> Presidents and agriculture secretaries denounce it. Editorial boards rail against it. Good-government groups mock it. Global trading partners formally protest it. Even farmers gripe about it.
>
> But as Congress proved again last week, few pieces of major legislation also get such overwhelming bipartisan support – enough, in the case of the current farm bill, to override the veto expected by President Bush any day now….[19]

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19 "Reaching Well Beyond the Farm", By David M. Herszenhorn, The New York Times, May 20, 2008

PART I

One must wonder how U.S. subsidies to agriculture continue on such a massive, obscene scale. We have reviewed hundreds of editorials in the U.S. press, most critical of current Farm Bills and subsidies. Here are a few examples:

- "It assaults common sense. American taxpayers shouldn't be paying to make corporate farmers richer." (Wichita Eagle, November 17, 2007),
- "With payments usually based on the amount of crops grown, farm subsidies fuel overproduction, wasting limited resources and adding to environmental damage from pesticides and fertilizers."[20] (Orlando Sentinel) and
- "Farm subsidies have always made more political than economic sense. They are jealously guarded by members of Congress from states where subsidized crops are grown." (Orlando Sentinel)
- "The system also has eroded America's influence abroad. The vital Doha round of trade talks continues to sink in part because of disagreement over American and European agricultural payments. In short, farm subsidies are a disgrace that any reform-minded politician, particularly any reform-minded politician with a big D next to her or his name, should be eager to address. (Washington Post)

  Instead, the House Agriculture Committee has produced a bill that essentially maintains current subsidy programs, with some minor tweaks billed as "reforms."[21] (Washington Post)

However, U.S. politicians who write Farm Bills have shown little concern about international obligations.

> "There's pressure on us to change the Farm Bill because that's the only way we can get a trade deal. Now, I'm sorry, but I've had enough of these trade deals. And unless we can get something good out of it, I don't give a darn if we get one."[22]

The 2008 Farm Bill[23] is comprehensive, covering the same program headings as in the 2002 Farm Bill.[24] The Bill was developed in an economic environment featuring two consecutive

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[20] "Bloated Boondoggle", Orlando Sentinel, May 7, 2007

[21] "This Is Not Reform – Will the Democrats keep wasting money on farm subsidies?", The Washington Post, July 24, 2007

[22] "Peterson: Doha deal had better be good", (Representative Collin C. Peterson, Chair of the Agriculture Committee of the U.S. House of Representatives), Delta Farm Press, by Forrest Laws, January 30, 2007

[23] The Food, Conservation, and Energy Act of 2008, which replaces the 2002 Farm Bill**,** was enacted into law on June 18, 2008 and governs most of U.S. Federal agriculture and related programs for the next 5 years.

[24] Commodity programs, Conservation, Trade, Nutrition Programs, Credit, Rural Development, Research and Related Matters, Forestry, Energy, Miscellaneous

years of record high farm incomes and very high market prices, by historical standards. This was especially the case for grains, oilseeds and dairy. It provides additional avenues and more scope for support and protection to U.S. farmers.[25]

The new bill adds to existing layers of U.S. farm support by:

- increasing the range of crops receiving substantial support;
- providing farmers with an option to receive revenue assurance payments (the Average Crop Revenue Election program) linked to variations in prices and yields;
- formalizing disaster assistance previously provided on an ad hoc basis;
- providing greater potential support for dairy farmers when prices for milk drop below specified levels or when prices for feed rise above specified levels; and
- reinforcing already highly protective arrangements for sugar.

The 2008 Farm Bill:

1. Raised the target prices for countercyclical payments (CCPs).
2. Raised marketing loan rates for loan deficiency payments.
3. Created new countercyclical and market loan programs for pulses, oilseeds and chickpeas.
4. Maintained planning restrictions on decoupled payments (direct payments).
5. Removed payment limits on market loans.
6. Creates a new permanent disaster fund.
7. Reinstated a part of the Illegal Step 2 Program for cotton.
8. Created new dairy support measures.
9. Increased the loan rates for sugar.

The shapes of the program may change but the deliveries of cash to beneficiaries have not declined.

Those critical of the Farm Bill point out – that at the time of relatively high commodity prices, American farmers were receiving subsidies for crops such as soybeans and corn. Product specific farm subsidies will amount to $43 billion over the next five years while crop insurance will

[25] "The 2008 U.S. Farm Bill – What is in it and what will it change?", Ivan Roberts, Chloe Hasteltine and Neil Andrews, December 2008, abare.gov.au

represent about 8% of the total Farm Bill funding or about US$23 billion. This comes at time when net farm income in the U.S. is expected to hit US$92.3 billion in 2009, 50% above where it was two years ago.

While many agricultural products are enjoying high prices as well as increased shelter from risk under the 2008 Farm Bill and this should mean lower subsidies, the U.S. Farm Bill takes no chances.

> "Most U.S. subsidy payments are price-dependent high when prices are low and lower when prices are high. But the laws are what matter, and the new Farm Bill will mean that U.S. farm subsidies will skyrocket if commodity prices fall for any reasons, as they did in 2003 when total payments exceeded $25 billion in trade-distorting support. For example, in the 2002 Farm Bill, if prices for commodities fell, CCPs could be as high as $5 billion. But Oxfam calculates that if crop prices drop in the future, the full CCPs for the five major crops – corn, wheat, soybeans, rice and cotton – would rise to $7.6 billion under the 2008 Farm Bill."[26]

Maintaining (indeed enhancing) subsidies at a time of relatively high commodity prices attracted considerable criticism. American farmers were receiving subsidies for crops such as soybeans and corn. Product specific farm subsidies were projected to amount to $43 billion over the next five years while crop insurance will represent about 8% of the total Farm Bill funding or about US$23 billion. This comes at time when net farm income in the U.S. is expected to hit US$92.3 billion in 2009, 50% above where it was two years ago.

The problems of such generous farm supplies are recognized by U.S. officials. Deputy U.S. Secretary of Agriculture:

> "I think more fundamentally even, this Farm Bill just heads in the wrong direction in terms of our international obligations. It's no secret our current farm programs under current law have come under enormous fire for their adverse impact on developing regions of the world and their ability to increase their agricultural production because they can't compete against the farm subsidies of the developed world. How does this bill respond? This bill responds by increasing trade-distorting supports on 17 out of 25 of the commodities that we provide. This is moving, clearly, in the wrong

[26] "Square pegs in round holes: How the Farm Bill squanders chances for a pro-development trade deal", Oxfam Briefing Note, July 21, 2008

> direction in terms of helping the world sustain themselves through food production."[27]

The stimulus package under ARRA for Agriculture was very attractive. Some $28 billion (3.5%) of the stimulus package was appropriated to the USDA. The Act:

- Provides $19.7 billion to increase the monthly amount of nutrition assistance to 31.8 million people. Dairy is a significant beneficiary from nutrition programs.
- Enables expanded opportunities for broadband loans and grants to rural communities.
- Expands funding opportunities to develop water and waste facilities.
- Provides funding to protect and conserve the nation's forests and farm land.
- Provides free technical assistance in the development of business adjustment plans to producers of raw agricultural commodities and fishermen who have been adversely affected by import competition.[28]

The $28 billion in funding supported $52 billion in spending. Program limits often undertake spending because of repayments during the final year or other accounting methods employed by USDA.

Why do the subsidies persist? Because farmers vote – and legislators are determined to keep their voters happy.

The CATO Institute, in its policy recommendations for the 108th Congress noted:

> "In addition to those direct subsidies, the U.S. Department of Agriculture runs a massive array of marketing, loan, statistical, research, and other support programs. Also, legal restrictions and tariffs manipulate markets for products such as sugar and dairy foods. All in all, about 70,000 employees of the USDA work on farm-related programs. No other industry in America is so coddled."

As we pointed out in an earlier study, U.S. legislators have a essentially domestic focus:

[27] Deputy U.S. Agriculture Secretary Charles F. Conner, Conference Call with Reporters: Announcement of a New Farm Bill from Congress, USDA Transcript, May 9, 2008

[28] www.usda.gov

> "I am troubled by the comments made by U.S. Trade Representative Susan Schwab to our trading partners in Australia. Negotiating away protections for American farmers for minimal market access is not a fair trade and it is not wise policy for our nation. American farm policy should be dictated by Congress and the Administration and not by the World Trade Organization."
>
> "My state of Illinois is home to more than 73,000 farms. Our agriculture policy supports far more than these farmers. Our nation's farmers deserve a guarantee from the Administration that it will not destroy their safety net."[29]

The U.S. cannot make straight-faced claims of comparative advantage in Agriculture when 46% of U.S. production is based on heavily subsidized irrigation water.[30]

The Appropriations Bill giving effect to the (2008) U.S. Farm Bill was signed October 16, 2009 by President Barack Obama. The bill is more complex than its predecessors and complicated global environment because of:

- the Fuel from Food switch in the use of corn and other feed grains, which created concerns about food security, and the price of agricultural products;
- the increasing pressure to recognize that Food Security is a basic human right which has too long been ignored.
- drought in important producing areas which has created shortages led to high prices for a range of farm products;
- the severe global economic downturn and related credit crunch, which has fed subsidies; and
- severe price volatility caused by the inability of subsidized producers in the U.S. and E.U. to project supply more or less in line with demand.

The rest of the world will not engage in meaningful market access negotiations unless and until the production distorting programs of the USA and E.U. are brought under control and until this happens problems will continue. Our next report which will be out early next month will explain how E.U. CAP reform with decoupling and lower reference and market prices will offset tariff

[29] Senator Dick Durbin (D-IL) commenting on USTR Susan Schwab's comments in Cairns, September 21, 2006

[30] http://www.idebate.org/debatabase/topic_details.php?topicID=613

reductions and continue to frustrate improved access to E.U. markets which now encompass 27 countries.

Former U.S. Agriculture Secretary, Dan Glickman, told the N.Y. Times farming has "become largely an income transfer program,"[31] with the government underwriting rural businesses and requiring very little in return.

Secretary Glickman went on to explain:

> "There seems to be a gradual realization in farm country that federal subsidies in the United States -- like those in much of Europe -- are not so much about food supply anymore as they are about keeping the least-populated parts of the country afloat. So while he criticizes the size of some of the handouts, Mr. Glickman says that without the government, thousands of farmers and the businesses that depend on them would go bankrupt within a year or two."[32]

USDA money helps to maintain the infrastructure in small town rural America, but it has made farmers too dependent on subsidies because, Mr. Glickman notes:

> "Essentially, the government's role in requiring the farmer to do something in return has been largely eliminated by Congress."

He added:

> "It's important enough for this country to keep rural communities going. And while I don't like the large payments going to some farmers -- that's an outright embarrassment -- many of these payments are keeping large sections of rural America from folding up and going down."[33]

He went on to explain why support had been increasing instead of declining (as might have been expected from the alleged reforms built into the Uruguay Round Agreement on Agriculture):

[31] "Failing Farmers Learn to Profit from Federal Aid", The New York Times, December 24, 2000
[32] Ibid.
[33] Ibid.

> "'Nobody talked about this during the presidential election. And you rarely hear it spoken in Congress. But these farm payments have become truly rural support payments.'"[34]

How did U.S. Farm Policy become such a burden to the rest of the world? Reviewing the New York Times since 2000 is enlightening:

> What has happened in rural counties …. completes a full circle, from the creation of farms by government incentive through the Enlarged Homestead Act of 1909 to a period of prosperity and independence in the 1950's and 60's, to the present where government is the only thing keeping people on the old bison grounds of half of Montana.
>
> The homesteads have become sources of export crops. Nearly 90 percent of the wheat grown in Montana is sent overseas. But it faces global competition and a glut. Even countries like Pakistan, once seen as a relief target, are now exporting grain. If the Montana growers [of grain] were to try and get by in the free market, they would lose about $2 on every bushel of wheat they grow.[35]

As the New York Times reported before the 2002 Bill became law:

> ***"… one thing that the people who grow the food and the people who write the checks agree on is that if the government were to suddenly disengage itself from its monumental entanglement with rural America, upwards of half of the 1.6 million farmers in the United States who now receive some form of federal assistance would go out of business."***[36] (emphasis added)
>
> "…the big harvest of government checks usually happens in the fall -- $40,000 for just being a farmer, another $40,000 for emergencies like bad market conditions, more than $100,000 for not making any money on what is grown, and $50,000 for taking other land out of production.
>
> Good crops or bad, high yields or low -- it hardly matters, the checks roll in from the federal government, the biggest payroll in farm country. By the end of the year, some farmers can receive up to $280,000 simply by having another miserable year of failure."[37]

Little had changed by the time of the most recent Farm Bill. After the 2008 Bill was passed, a Times Editorial explained:

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34 Ibid.
35 Ibid.
36 Ibid.
37 Ibid.

> "Last year's terrible farm bill left the old subsidy system essentially intact."[38]
>
> … The Times's editorial page called the bill "disgraceful." My former colleagues at The Wall Street Journal's editorial page ripped it as a "scam." Yet such is the logic of collective action….
>
> The growers of nearly every crop will get more money. Farmers in the top 1 percent of earners qualify for federal payments. Under the legislation, the government one will buy sugar for roughly twice the world price and then resell it at an 80 percent loss. Parts of the bill that would have protected wetlands and wildlife habitat were deleted or shrunk.
>
> Senator John McCain declared: "It would be hard to find any single bill that better sums up why so many Americans in both parties are so disappointed in the conduct of their government, and at times so disgusted by it."[39]

The Wall Street Journal refers to the 2008 Farm Bill as "The No Farmers Left Behind Act":

> "Total farm income is expected to leap by 44% to $73 billion this year, according to the USDA. The average income of full-time farmers hit $81,420 last year, with large corporate farms earning in the millions of dollars. Meanwhile, farmland prices in the past five years have increased by $200 billion a year, or an average asset gain of $100,000 per year per full-time farmer.
>
> And yet Congress is writing another five-year farm bill as if this were 1936 and the Okies roamed the plains."

The Times provided some very useful insights from the legislators:

- "Senator Saxby Chambliss of Georgia, the senior Republican on the agriculture committee. "Given the amount of investments in the many critical areas to all Americans in this bill, it is actually inaccurate to simply call this a farm bill."…

- "Representative Ron Kind, Democrat of Wisconsin, "You need a few members of Congress here to stand up today and say the emperor has no clothes… The president is right. We ought not be giving taxpayer subsidies to wealthy individuals at a time of record-high commodity prices in the marketplace."

- Representative Jeff Flake, Republican of Arizona, "Sometimes here in Washington, we tend to drink our own bath water and believe our own press releases. And to hear some of the debate here, you would think this is the best bill in the world and that everybody out there has just got to support it."

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38 "Fixing Agriculture", The New York Times (Editorial), December 19, 2008

39 "Talking Versus Doing", By David Books, The New York Times, May 20, 2008

- Ken Cook, the president of Environmental Working Group, an advocacy group that is a fierce critic of farm subsidies, said the status quo was exactly what taxpayers got in the bill. “If you are not going to make these changes now, when on earth are you going to make them?” Mr. Cook asked. “It really is shocking that they did so little.”

  He added, “It’s a measure of the pressure this bill can put on people. If you are from subsidy country, you are expected to bring home the bacon.”[40]

U.S. Domestic Support frustrates WTO Reform and Trade Liberalization

The WTO Agreement on Agriculture was supposed to result in the phase out of subsidies so that markets could be opened to free and open (some say fair) competition. Where is the fairness in other countries with much smaller budgets opening markets to competition from such heavily subsidized producers? Notwithstanding subsidy reduction obligations, financial support in the heaviest subsidizing countries has not declined. Rather, the old subsidies have been dressed up differently and reported to the WTO on a colour blind basis or as green, with little regard for their real effects on production and trade. And many subsidies go unreported. Jacques Berthelot of Solidarité lists “cheating” by the U.S. and E.U. as including the following.

Berthelot reported:

> “The U.S. has largely under-notified or not notified many amber box subsidies
>
> - The subsidies on agricultural insurances: the CRS report shows that the average subsidies on agricultural insurances have been of $3.080 bn from 2002 to 2006, and that the amounts notified for 1996 to 2001 are much lower than the actual amounts registered by the U.S. Budget…
>
> - Other NPS AMS subsidies not notified to WTO but notified to OECD up to 2005:
>
>   - The grazing subsidies notified to WTO up to 2001: $57 million yearly
>
>   - The subsidies never notified to WTO but notified to OECD as the energy subsidies (tax exemption on agricultural fuel) for $2.385 bn every year from 1995 to 2005[14];

[40] “Reaching Well Beyond the Farm”, By David M. Herszenhorn, The New York Times, May 20, 2008

- The subsidies under-notified to WTO in comparison with the levels notified to OECD, those on agricultural loans: $610 million yearly against $48.8 million notified at WTO (same OECD source);

- The subsidies clearly under-notified to WTO as to OECD, those on irrigation: $300 million notified for 2001 when the truth is rather ten times given that some evaluations go up to $10bn15…"[41]

And University of California Professor Daniel Sumner explains:

> "The cotton case has clarified the proper classification of U.S. farm subsidies into the "green" and "amber" boxes of the WTO Agriculture Agreement. The upshot of that clarification is that the United States has likely been exceeding the $19.1 billion cap on trade-distorting, amber-box subsidies that it agreed to abide by under the Agriculture Agreement. According to the calculations described in this paper, total U.S. amber-box subsidies to be included under the cap amounted to $29.1 billion in 2000 and $25.3 billion in 2001 and will likely total about $26.3 billion in 2006—all far in excess of the $19.1 billion limit."19

Berthelot adds:

> For the dairy and sugar market price supports we have extended the notifications made for 2001 ($5.515 bn) up to 2005, as D. Sumner has done, which is highly conservative since, according to the USDA "*Dairy has accounted for about $5 billion annually and sugar another $1 billion*", and the EU estimates "*market support for dairy and sugar at $5.8 billion and predicted to slightly increase*".

There are interlinkages between subsides and tariffs. Massive U.S. domestic support encourages excess production and exports. These seemingly perpetual surpluses must be exported, often at less than cost of production. This domestic support is *de facto* an export subsidy. These subsidies unilaterally and without consultation offset and negate statutory tariff protection in other WTO members' markets. The U.S. (and the E.U.) may not intend to beggar their neighbours but this has been the real effect of its unrestrained largess to U.S. (and E.U.)[42] agricultural producers.

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41 "To unlock the agricultural negotiations the U.S. must first comply with the WTO rules", Jacques Berthelot, Solidarité, February 8, 2007

42 We monitor E.U. subsidies because while we were retained to measure support to U.S. agriculture, it would be unfair to leave the impression that the other major subsidizer is less guilty of disrupting world trade in agriculture.

Other countries should not need restructure and rationalize their farm sectors because of the disruptive and devastating effects of U.S. subsidies, competitive currency devaluations or its veiled protectionism delivered through non-tariff measures like COOL. The real need is to discipline the "beggar thy neighbour" policies which lead to massive disruptive U.S. (and E.U.) farm subsidies which drive prices down in world markets.

There are differences in size and relative affluence between countries which exacerbate the impact on their farm economies of subsidies. These differences mean that a "one size" or universal negotiating modality in the current WTO negotiations is not suitable for all. Then Minister Argrimsson of Iceland told the Ministerial Conference at Cancun that "the harmonization proposal of tariff capping falsely presumes that one size really does fit all".[43]

How does Domestic Support Frustrate Trade Liberalization

Some countries came out of the Uruguay Round with very limited ability to provide financial support to their farmers. The Canadian government accelerated subsidy reductions in part to meet budgetary concerns but primarily because the government lives up to its obligations no matter how difficult this may be. Most developing countries did not have the resources to support their millions of subsistence level small farmers even before the Uruguay Round.

The WTO rules simply did not take account of the very fundamental, subsistence nature of agriculture in many developing countries. Small farmers in these countries are totally vulnerable to cheap import competition. Small farmers in developing countries cannot be treated the same way as the agribusiness and corporate farmers which dominate agriculture in North America and will do so increasingly in Europe.

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43 WT/MIN(03/ST/36, September 11, 2003

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Developing countries opened their markets – either because the World Bank forced them in the 1980's to eliminate quotas which could have been converted into TRQs – or because their negotiators took on obligations they could not live with.

Undisciplined domestic support is the most serious cancer in the system and it must be excised – the sooner the better. Such support:

- stimulates surplus production;
- this production must be dumped in world markets;
- there is no need for the subsidized farmers to recover their cost of production;
- the subsidies insulate the beneficiaries from import competition – they can urge market access concessions on others because they will be able to offset tariff reductions through domestic or income support.

It is now recognized that a major failing of Agricultural Framework proposed was the "cookie-cutter" approach – and placed the same demands on all parties no matter what their ability to accept, implement or adjust to the results. This approach could not lead to an equitable result because there are very few similarities among WTO members. Indeed, there are vast differences in their agricultural policies.

These differences can be caused, *inter alia*, by:

- size;
- relative GNP;
- resources;
- crop/product mix;
- geography/climate.

These differences are real; they are not imagined – they are natural, they are not contrived. The WTO negotiations on Agriculture were at least initially influenced by those with the deepest pockets – or the lowest costs. However, it became clear to those who lacked the financial resources and/or advantages that it was unacceptable to be penalized or punished simply because they are and must be different.

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We have been writing about the devils of undisciplined domestic support and its impact on the prospects for Doha success since the 2002 Farm Bill. Trade and production distorting domestic support is a concern in the global trading system which needs to be excised. This is our most recent report on Farm Bill largess. There are no improvements since the 2002 Farm Bill and initial discussions in Congress of the 2012 Bill don't promise relief.

House Agriculture Committee Chair Collin Peterson has publicly signaled he is interested in creating a system that focuses on ensuring revenue for farmers through risk management, possibly through enhanced crop insurance and conservation programs.[44] He has also pointed out that a new farm bill will have to contend with the fact that there will be less money available due to efforts to reduce the budget deficit. Our concern is that too often for Congress risk management means risk elimination.

In recent years there has been considerable focus on the real problems posed by U.S. and E.U. domestic support.

Our analysis strongly suggests that:

- the single undertaking or "one size fits all" approach, urged by the biggest subsidizer, is far from suitable for all countries.
- wealthier countries can through generous subsidies and other forms of support insulate their farm sectors from Market Access liberalization.
- there are interlinkages between subsidies and tariff /quota protection which cannot be ignored. Failure to take these linkages into account will result in perpetuating and exacerbating imbalances in the WTO rules and conditions of competition relating to agricultural trade.
- the use of green or *de minimis* domestic support tends to be very production and trade distorting. In this connection, we refer the reader to:
- assertions about WTO consistency of specific programs are at times self-serving, misleading and do not stand up to challenges. This has been confirmed by the panels

[44] "Peterson Presses Ahead On New Farm Bill, Senate and Administration Defer", Inside U.S. Trade – May 7, 2010

in *E.C. – Sugar* and *U.S. – Cotton*. China is now challenging support to U.S. feedgrains as an actionable subsidy in its CVD investigation of U.S. poultry.

- WTO Dispute settlement, including "gap-filling" by the Appellate Body, has, altered the balance of negotiated rights and obligations.
- because the WTO is not a self policing organization, non conforming and unreported subsidies provided by the USA should be challenged under WTO Dispute Settlement procedures. However, we do not expect that WTO members will be prepared to cede additional power or authority.

As anyone who was in Geneva in July 2008 knows, many developing countries had their own concerns about domestic support :

> "China refused to cut its 40% import duty on cotton to help the Americans. "We have a political problem, 10 million cotton farmers, mostly in the western province of Xinjiang." China also declined to give more access for wheat and corn. In the industrial area, China said substantial cuts had already been made during the WTO accession process: "We cannot go back now and say, 'we will make further tariff cuts"..."[45]

Others, former Doha Round boosters who now accept and analyzing the reasons for the deeply comatose state of the negotiations, share these views:

Former HK representative to the WTO and Chair of the Agriculture Negotiating Group, Stuart Harbinson addressed the need for change:

> The case against the WTO is that it has achieved little or nothing of substance since the late 1990s. As the Consultative Board to Director-General Supachai Panitchpakdi put it in 2004:
>
> > "In recent years the impression has often been given of a vehicle with a proliferation of backseat drivers, each seeking a different destination, with no map and no intention of asking the way."[46]

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[45] "How to revive Doha with some chance of success", Roderick Abbott, Senior Trade Adviser at ECIPE, No. 04/2009

[46] The "Sutherland Report", WTO, 2004

That U.S. and E.U. domestic support was not disciplined clearly has been the major problem. Roderick Abbott, a former WTO Deputy Director, notes:

> "A similar problem of measurement presented itself in seeking the reduction of domestic subsidy payments in agriculture."[47]

The impact of the obscene domestic support on developing countries to U.S. and E.U. to farmers was also taken up by War on Want. This NGO concluded:

> "The WTO could have focused its energies on brokering a deal to stop the dumping of E.U. and U.S. farm produce on developing country markets, one of the very worst abuses of the international trading system. But this did not happen. Instead of a development agenda, the talks degenerated into an unapologetic market access agenda."[48]

Crop insurance programs under the World Trade Organization are considered non-product specific trade-distorting farm subsidies classified in the amber box. That box allows countries to shield these programs from the cuts that are otherwise imposed on amber box subsidies as so-called de minimis exemptions, so long as those exemptions do not exceed 5% of a member's total agricultural production. For the U.S., this amounts to roughly $5 billion.

Chairman Peterson told the North American Agricultural Journalists (NAAJ) that commodity groups are beginning to work on possible program changes in their area, with the dairy industry ahead of everyone else. He said cotton producers are looking at potential changes to the program, which is necessary in light of Brazil's successful challenge in the World Trade Organization.

He said wheat growers have put together a working group to look at their programs, as have soybean producers and corn growers, who were at the forefront in the last farm bill by proposing a revenue-based program that ultimately resulted in the ACRE program in the 2008 farm bill.

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47 "How to revive Doha with some chance of success", Roderick Abbott, Senior Trade Adviser at ECIPE, No. 04/2009

48 J. Hilary, Director of policy at War on Want, July 2008. Quoted by Euractive in "Pros and Cons of reviving Doha"

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On April 28, 2010, *Dairy Markets* reported that legislation was to be introduced in Congress that would authorize collection of a financial penalty on dairy farms that produce milk in excess of a target set by a producer board appointed by the U.S. Department of Agriculture (USDA).

The Dairy Price Stabilization Program was developed by California's Milk Producers Council (MPC) and several allied producer groups to temper price volatility by discouraging excessive production. The legislation is sponsored by Representatives Jim Costa of California and Peter Welch of Vermont, both Democrats.

Costa said that his bill would "curb the milk price volatility that is driving dairymen out of business" by employing financial incentives "to better align supply and demand while still promoting dairies to grow."[49] This sounds like supply management – will Canada have company?

MPC president Syp Vander Dussen told the USDA Dairy Industry Advisory Committee, "We need supply management". The low-price periods in the milk price cycle "are getting so deep and financially devastating that otherwise healthy dairies cannot survive." An historical analysis shows that the concentration in the U.S. is affecting all segments of the market.

A spokesperson for California Milk Producers Council said, "This is not supply management like we've ever seen before," but instead "a uniquely American method of production management." It certainly sounds like supply management – no matter how it is done.

This is not the only example of farmers around the world recognizing that the problem is supply – and that fair policies promote over-production – and only a little over-production is enough to cause prices to crash.

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[49] "U.S. legislation would authorize supply management for milk", Dairy Markets, April 28 2010

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U.S. farmers continue to lobby Congress for a better dairy policy.[50] There are proposals for radical reform of dairy policy to address the most dramatic reversal in U.S. dairy farm fortunes in memory but does not seem disposed to make immediate changes.

The National Milk Producers' Federation (NMPF) has advanced a proposal to abandon milk price supports and direct income support payments in favour of a subsidized revenue insurance scheme.

Current policy "fails to provide an adequate safety net, is inflexible and provides few tools for producers to access in times of low prices or extreme volatility."[51]

"Waiting until 2012 to reform dairy policy leaves many of us concerned," Hardesty said. "The expected recovery of 2010 is slow in coming and likely will not be enough. Many of my neighbours are wondering if they will make it to 2011.

Evolution of WTO Rights and Obligations through Domestic Settlement

The WTO is a much different type of Agreement than the GATT was. The U.S. never ratified the GATT to give it Treaty Status, but the WTO is a Treaty. The words of the WTO Agreements mean what they say (they should mean no more than what they say but experience with dispute settlement has established that sometimes they do). The Appellate Body has in some cases filled in "gaps" in the negotiated texts – thus creating obligations where none previously existed.

The most egregious case of gap filling in agriculture involving Canada was in *Canada – Dairy*.

Canada's concerns about the introduction of a cost of production benchmark and disciplines on cross-subsidization into Agreement on Agriculture (AoA) Article 9.1(c) are well known. These concerns have since been shared by European Communities because of the application of this

50 "Congress hears pleas for more U.S. dairy farmer help", Dairy Markets, May 12, 2010

51 Les Hardesty of Greeley, Colorado, member of the executive committee of Dairy Farmers of America (DFA)

approach to its exports of unsubsidized "C" quota sugar. And, if challenges of U.S. subsides in the grains and oilseeds sector were pursued, they too would become familiar with condemnation for cross subsidization – a concept which is conspicuous by its absence in the WTO AoA and SCM Agreements.

The U.S. too has concerns about "gap-filling" by panels which change the expectations of negotiators and legislators. According to then House Agriculture Committee Chairman Bob Goodlatte (at a meeting with former WTO Director-General Supachai Panitchpak):

> "The recent ruling by the WTO Appellate Body regarding the case brought by Brazil against the U.S. may hold significant ramifications for agricultural programs in the U.S. Chairman Goodlatte noted the problematic nature of employing "constructive ambiguity" during WTO negotiations. "In the WTO, countries seem to reach decisions in the course of negotiations or in other matters that reflect a general, yet ambiguous, consensus. Later, these general agreements come under scrutiny and are found to violate WTO rules, such as the recent decision by the WTO Appellate Body in the case brought by Brazil against the U.S. The Appellate Body's decisions concerning export credit guarantees, declaring them to be export subsidies, and domestic support for cotton, declaring them to suppress world prices and thereby requiring the removal of the subsidy or the adverse effect of the subsidy, take the common understanding of the Uruguay Round and turn it on its head. This seems to me to be a classic case of bait and switch," said the Chairman."[52]

We have considered the WTO consistency (or inconsistency) of each of the reviewed programs. We address U.S. compliance with its obligations under the WTO in a specific and aggregate sense, we have made limited but specific supporting references to relevant WTO dispute settlement decisions, indicating *E.C. – Sugar*,[53] *Canada – Dairy*[54] and *USA – Upland Cotton*.[55] The primary purpose of this study was not to establish a basis for WTO complaints or challenges

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52 http://www.agriculture.house.gov, Goodlatte Says Ag Negotiations in Trouble, March 9, 2005

53 WT/DS 265/R, October 15, 2004

54 The Panels and Appellate Body consider *Canada – Measures Affecting the Importation of Milk and Exportation of Dairy Products* reported between May 17, 1999 and December 20, 2002 and included six distinct proceedings: *Report of the Panel* (WT/DS103/R, WT/DS113/R – 17May 1999), *Report of the Appellate Body* (WT/DS103/AB/R, WT/DS113/AB/R – 13 October 1999), *Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Panel* (WT/DS103/RW, WT/DS113/RW – 11 July 2001), *Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Appellate Body* (WT/DS103/AB/RW, WT/DS113/AB/RW – 3 December 2001), *Second Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Panel* (WT/DS103/RW2, WT/DS113/RW2 – 26 July 2002) and *Second Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Appellate Body* (WT/DS103/AB/RW2, WT/DS113/AB/RW2 – 20 December 2002). These Reports are referred to as relevant.

55 WT/DS 267/R, September 8, 2004 and WT/DS 267/AB/R, March 3, 2005

against any of the reviewed programs. Nor is it a shopping list for countervailing duty complaint. Rather, as noted above, the purpose of this study is to identify and review the full scope of support and support activities provided to U.S. agriculture.

We do recognize that some U.S. programs meet the definitions for exemption from AMS reductions in AoA Annex 2.[56] Many do not. Others share our concerns about the inadequacy of WTO monitoring and oversight of subsidy designations by the U.S. and E.U.[57]

E.U. Support to Dairy

This paper would not be complete if it did not touch on the impact on farmers and ranchers in Canada and elsewhere of undisciplined and improperly classified domestic support by the E.U. We have not attempted to measure E.U. support because it was beyond the scope of the study.

We do know what European farmers want. The principal European Farm Groups want:

- no cuts in direct payments;
- shifting benefits to farmers which are going to non-farming landowners;
- maintaining CFA and farmers in mountainous area;
- increase incentives to provide rural services;
- increased support to cope with climate change and water constraints;
- the E.U. should ensure that when negotiating trade agreements, concessions on agriculture require that imports meet environmental and animal welfare standards equivalent to those applied in the E.U.

[56] "Green Box Mythology: The Decoupling Fraud" Grey, Clark, Shih and Associates, Limited, June 2006

[57] "To unlock the agricultural negotiations the U.S. must first comply with the WTO rules", Jacques Berthelot, Solidarité, February 8, 2007; "The huge lies in the US notification of its agricultural trade-distorting domestic supports from 2002 to 2005", Jacques Berthelot, Solidarité, January 3, 2008; "The king is naked: the impossible U.S. promise to slash its agricultural supports", Jacques Berthelot, Solidarité, November 12, 2005

- improved safety nets and income maintenance;
- increased use of export credits.[58]

Our previous analysis:[59]

- underlines the extent of CAP distortions in production and trade;
- explains how the so-called decoupled Single Farm Payments are not green and how they encourage consolidation;
- provides detail on the cost impact of feed grain subsidies – which Jacques Berthelot estimates to be 12.4% for pork and over 20% for poultry.[60]
- identifies how E.U. domestic support is not green – and thus, production and trade distorting;
- reviews the future of the CAP support system and how it is becoming less and less green;
- highlights the problems of the dairy industry in Europe and the strong likelihood that there will be a continuing need for very tight regulation and intervention.

The 2003 CAP Reform has not been a liberalizing influence:

- It will allow market prices to fall, reducing the need for export subsidies to meet competition in world markets. But the move to safety net subsidies will shift E.U. farmers into a situation similar to their U.S. counterparts. While European farmers will take less from the market – they will be insulated from price impacts by government support.
- Reductions in market prices and tariffs will not improve access to E.U. markets, if the single farm payment (SFP) and other direct payments combined with market based farming activities, maintain farm incomes and insulate European farmers from market forces.
- The E.U. mechanisms will permit some internal prices to decline closer to world levels. This means that while E.U. internal prices will fall, market revenue lost will be made up by direct payments from Brussels, topped up by Member State contributions.

58 COPA/COGECA, The Future of the CAP after 2013, May 2010

59 Grey, Clark, Shih and Associates, "Understanding CETA: Is the Common Agricultural Policy on the Table?", June 17, 2010, pg 12 and "The Doha Round: Searching In Vain For Vital Signs", July 1, 2010

60 Jacques Berthelot, "Feed subsidies to E.U. and U.S. exported poultry and pigmeats, January 10, 2006

- The E.U. has introduced these reforms to minimize the budgetary implications of enlargement to 10 new countries with smaller farming units, and because the farmer who will leave the farm will in many cases be older operators, who will be replaced by younger farmers, who have access to incentives to encourage in the consolidation which the new CAP encourages. This is a reform and revitalization of agriculture in the E.U.
- While the SFP may not help less efficient, small scale producers to cope with lower prices,[61] the reforms will force consolidation (which some consider is long overdue) into larger, more economic and more profitable farming units.[62] This trend is illustrated by the Spanish experience where 5,000 small dairy farmers have been replaced by 500 larger farmers[63] – no doubt operating at 10 times the scale. Spain has also introduced policies to facilitate the retirement of older farmers and their replacement by younger ones.[64]
- In France, quota transfer rules will give priority to young farmers who started in business before 2000/01 and where quota is below the regional average. [65]
- Tariff reductions proposed by the E.U. appear to envisage are diluted by:
  - the inclusion of pivots in E.U. formula which permit the ratcheting down of tariff reductions;
  - The insistence on a large number of tariff lines which can be designated as sensitive products.
- Market access concessions by the E.U. will be difficult to exploit – as potential exporters will be unable to compete with more efficient, larger scale E.U. farms supported by SFP base income.
- The E.U. support is being moved, not entirely, but substantially from the Blue Box,[66] and the Amber Box to the Green Box.
- Decoupling when combined with the SFP will not guarantee reduced production. Indeed, it will create income security which will insulate E.U. producers from market signals. "Partial" decoupling is even more likely to encourage increased production.
- E.U. farm units will through the 2003 reform package become larger, more efficient and lower cost. The elimination over time of production controls will result in increased production which will find its home first on the domestic market (keeping out imports) and then on world markets where a reduced

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[61] However, member states can "top-up" these payments by 10% cushioning the impact for many marginal farms.
[62] See Agra Europe
[63] Ibid.
[64] Ibid.
[65] "New milk quota rules for France", Dairy Markets, July 25, 2005
[66] The special concessions in the Uruguay Round with respect to non-inclusion of Blue Box support in AMS reduction was a special gift to the E.U. which the E.U. wishes to continue and the U.S. now wants to redefine in order that it better fits the evolution of U.S. support.

differential between domestic and export prices will reduce E.U. expenditures on export refunds and restitutions.

- Support to dairy in the aggregate will not decline, and is likely to increase.
- E.U. Support to the dairy industry was estimated by OECD to be € 16 billion, in December 2002.[67] This was equated to $2 per cow per day. At today's exchange rates this is now $3 per cow per day. While the majority of this amount was attributed to price supports and consumption incentives, reductions in these payments have been offset by direct payments.[68] Nor do the OECD calculations take account of subsidies to dairy producers through benefits received from their involvement in the beef and veal sector.
- The dairy industry in some member states may be better off with SFPs. The U.K. has traditionally experienced milk prices well below the target price (14-16% below between 1998-2000). The price in the U.K. was 40% of the average price in Italy.[69]
- Market access to the E.U. for milk and milk products access will not improve between now and 2014/15, based on E.U. market projections and expected proposals for "sensitive products".
- Market access for beef and veal products access will continue to be less than 2% of consumption. Beef will be a "sensitive" product.
- If the E.U. were to grant 5% clear market access for cheese imports would increase by nearly 300,000 tonnes annually.
- If the E.U. were to grant the equivalent of these Canadian TRQ access in the Uruguay Round for cheese, imports would increase by over 500,000 tonnes annually.

France will not support changes to the CAP which will reduce farm incomes and remove safety nets; President Sarkozy has made this quite clear.[70] And the new Agriculture Commissioner Dacian Cioloş has laid out the following agenda for the post-2013 CAP and we do agree that his plans constitute reform. They are a clawback to greater intervention.

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67 Oxfam Briefing Paper 34, "Milking the CAP", December 2002, pg 1
68 Oxfam Briefing Paper 34, pg 2
69 Oxfam Briefing Paper 34, pg 16
70 "Understanding CETA: Is the Common Agricultural Policy on the Table?", Grey, Clark, Shih and Associates, June 17, 2010, pg 12

OVERVIEW: PART I – FEDERAL SUBSIDIES

This study updates and expands on the 1990, 1998, 2003 and 2005 Studies on *Subsidies* U.S. agricultural and dairy interests which we prepared for the Dairy Farmers of Canada (DFC). The scope of this study like the 2005 study[71] reviews the full range of subsidies and support provided directly and indirectly by the Federal and State Governments in the United States to all agricultural producers and processors.

In 1998, we noted that the United States had taken some steps in the 1996 Farm Bill to amend its agricultural support programs to make them more consistent with WTO rules. At that time, we concluded that some of these changes simply gave the appearance of de-coupling the provision of support from production decisions. But even the halfhearted attempts were not embraced by U.S. agriculture or Congress.

Since our 1998 study, the U.S. introduced Farm Bills in 2002 and 2008 which made many changes in the form and nature of support provided to U.S. Agriculture. None of these changes could be considered to be real reform. Nor have they have significantly reduced or diluted federal support. The 2002 Farm Bill ended some of the reforms of the 1996 Farm Bill by reversing 1996 attempts to ensure WTO compliance in the Freedom to Farm legislation. The 2002 Bill also exacerbated the severity of the effects of U.S. "domestic" support on world markets. The 2008 Farm Bill tries at least in terms of appearances to create a more WTO-consistent system, but as we note, generally falls short.

The U.S. Federal Government continues to provide very generous subsidies and other support to U.S. agricultural producers and processors. We remain concerned about the impact of these subsidies; indeed our concern is even deeper, that the high level of domestic support provided to U.S. producers provides *de facto* export subsidies to support and facilitate exports of U.S. agricultural products.

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71 www.greyclark.com

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Since our 2003 and 2005 reports Canada[72] and Brazil[73] have both sought WTO Dispute Settlement with respect to U.S. domestic support. However, the panels have, in effect, been placed in limbo – they are on hold with no apparent intention to re-open them.[74] Justice delayed has never been so much justice denied.

The massive domestic support provided by USDA results in year over year overproduction of commodities that must be sold into the world market at depressed prices often below cost of production Rather than refer to the domestic support as providing *de facto* export subsidies, some observers refer to the resulting below cost exports of U.S. commodities as "dumping".[75] No matter how it is described, the result is the same. The "deep pockets" support provided to U.S. agricultural producers stimulates production year after year that is well in excess of U.S. domestic demand. The resulting surpluses are then sold onto world markets at prices below cost of production and below fair market value.

In addition, based on the WTO dispute settlement decisions in *Canada – Dairy*[76] and *E.C. – Sugar,*[77] it is clear that U.S. exports are also supported by substantial WTO Agreement on Agriculture (AoA) Article 9.1(c) export subsidies which are provided by U.S. producers on the export sale of their products.

The sheer magnitude of U.S. farm subsidies is mindboggling to most other WTO members. U.S. agricultural budgets are not likely to become, part of the solution to imbalances in agricultural trade; they will continue to be a very significant part of the problem. For example, in its

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72 WTO DS/357

73 WTO DS/357

74 Discussions with Canadian officials

75 *Dumping without Borders: How US Agricultural Policies are Destroying the Livelihoods of Mexican Corn Farmers*, Oxfam Briefing Paper 50, August 2003, pg 25

76 The Panels and Appellate Body consider *Canada – Measures Affecting the Importation of Milk and Exportation of Dairy Products* reported between May 17, 1999 and December 20, 2002 and included six distinct proceedings: *Report of the Panel* (WT/DS103/R, WT/DS113/R – 17May 1999), *Report of the Appellate Body* (WT/DS103/AB/R, WT/DS113/AB/R – 13 October 1999), *Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Panel* (WT/DS103/RW, WT/DS113/RW – 11 July 2001), *Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Appellate Body* (WT/DS103/AB/RW, WT/DS113/AB/RW – 3 December 2001), *Second Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Panel* (WT/DS103/RW2, WT/DS113/RW2 – 26 July 2002) and *Second Recourse to Article 21.5 of the DSU by New Zealand and the United States, Report of the Appellate Body* (WT/DS103/AB/RW2, WT/DS113/AB/RW2 – 20 December 2002). These Reports are referred to as relevant.

77 WT/DS 265/R, October 15, 2004

Recovery Act, the Obama Administration provided an additional $28 billion of funding which supported some $52 billion in additional spending.

In 2002, the House of Representatives Budget Committee described the Agriculture function as follows:

> "The Agriculture function includes funds for direct assistance and loans to food and fiber producers, export assistance, market information, inspection services, and agricultural research. Farm policy is driven by the Farm Security and Rural Investment Act of 2002, which provides producers with continued planting flexibility while protecting them against unique uncertainties such as poor weather conditions and unfavourable market conditions.

Then the Committee explained:

> "The Agriculture Committee has sole jurisdiction over programs in this function. The mandatory figures are CBO baseline levels. Any changes in these levels that may result from reconciliation directives (described in the Reconciliation discussion in this report) and the savings indicated under Function 920 will be determined by [policies] developed by the Agriculture Committee."[78]

There is no "big picture", national intent oversight. For reasons explained in the introduction, there does not seem to be any real hope of bringing U.S. support to Agriculture under discipline which will result and control through meaningful reductions.

The 2008 Farm Bill[79] was developed and introduced during a period of very strong commodity prices. Media comment underlines its excesses. The Pittsburgh Post-Gazette explained:

> "Americans are in sticker-shock over grocery prices, while people in developing countries are rioting over food shortages.
>
> And across the U.S. heartland, American farmers are enjoying record incomes, but losing sleep over rising expenses and turbulence in the commodity futures markets.

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[78] Report of the Committee on the Budget House of Representatives, Concurrent Resolution on the Budget – Fiscal Year 2006, Report 109-17, March 11, 2005, pg 26

[79] Food Conservation and Energy Act of 2008

> Here on Capitol Hill, though, it is pretty much farm politics as usual. As Congress works toward final passage of the farm bill, it is poised to continue most of the existing farmer subsidy programs, including about $5.2 billion a year in so-called "direct payments" that will be disbursed even as net farm income is projected to hit a historic high in 2008.
>
> The farm bill, which comes along roughly once every five years and will cost upward of $300 billion, in fact will do little to address many of the most pressing concerns. It will not change biofuel mandates that are directing more corn to ethanol and contributing to a global run-up in food prices.
>
> In other words, Congress seems oblivious. And long-standing critics of U.S. policy are piling on.
>
> "It really is astounding," said Rep. Ron Kind, D-Wis., who has pushed for broad changes in farm subsidy programs. "It's as if this farm bill is being negotiated in a vacuum."“[80]

The New Orleans Times-Picayune reported the Farm Bill Pork Barrel is geared to local interests of southern Sugar growers.

> "An environmental group said the farm bill "fans the flames of global warming." A taxpayers group complained it allows "millionaire farm households to receive handouts from taxpayers." And President Bush decried that Congress failed to "better target subsidies."
>
> But in two days of voting, the House and Senate this week passed the five-year, $307 billion farm bill by bipartisan, veto-proof margins. The bill passed the Senate 81-15 Thursday, one day after it passed the House 318-106."[81]

The United States is in a serious budgetary deficit situation – which requires drastic efforts to control spending. There were suggestions that Agriculture will also face reductions. Indeed, President Obama tried to reduce Farm Bill spending – and to reduce payments to wealthy farmers. He failed in 2009. In 2010, while he had not given up on his quest, Congress was not inclined to risk the wrath of farmers.[82] Clearly the rest of the world should not expect an imminent and substantial reduction in U.S. financial farm support.

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80 "It's as if this Farm Bill is being Negotiated in a Vacuum", By David M Herszenhorn, Pittsburgh Post-Gazette, April 24, 2008
81 "Congress plows past farm bill critics ; Aid to sugar farmers wins fans in state", By Bruce Alpert, Times-Picayune, May 16, 2008
82 "Is President Obama's Honeymoon with Ag Over?", Corn and Soybean Digest, March 2, 2009

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Canada is highly vulnerable to the adverse effects of U.S. subsidies. NAFTA created an open border and U.S. prices plus or minus freight from/to the basing point, depending on supply conditions are routinely imported into Canada. In a wide range of agricultural sectors these have set market clearing prices for Canadian farmers, particularly grains and oilseeds producers. The impact of these subsidies given without regard for the impact on farmers in other countries are, for global agriculture, the equivalent of the "beggar thy neighbour" tariff policies of the 1930s.

Canadian farmers' concerns have been exacerbated in recent years by a very significant strengthening of the external value of the Canadian dollar and the impact on feedgrain costs of food to fuel switches driven by mandated use of ethanol in gasoline.[83] U.S. farmers do not have the same concerns as their Canadian neighbours about market forces, like supply and demand. USDA provides a safety net which are even more generous as prices go down and as we found in 2009 "stimulus spending provides even greater support".[84]

At the Cancun Ministerial, Uruguay Foreign Minister H.E. Dr. Didier Opertti Badan, called for abolition of domestic support and export subsidies at the Cancun Ministerial meeting. He said,

> "This reform is no longer the wish or demand of a more or less broad group of countries. It has grown to an international outcry, impossible to ignore or to sidestep any more."[85]

The largest provider of domestic support is the United States – through green box, amber box and *de minimis* programs.

The G-20 and other countries have targeted U.S. domestic support for reduction and control.

Brazil, India and other developing countries said Tuesday that the 2008 U.S. Farm Bill will be an obstacle to global trade talks aimed at lifting millions worldwide out of poverty. They claimed

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83 See "Senators Chamblis, Brownback urge USDA not to balance Budget on backs of farmers. U.S. Senate Committee, Agriculture, Nutrition and Forestry, Press Release, July 27, 2010

84 Congressional Research Service, Agriculture and Food Provisions in the 2009 Economic Stimulus Package, Report # R40160, January 23, 2009

85 WT/MIN(03)/ST/25

that the "new bill heads agriculture policies in the wrong direction at a decisive juncture of the WTO Doha Round."[86]

The impact of U.S. subsidies to cotton production has been condemned through dispute settlement, but little in the way of concrete measures has been done to remedy the situation. The cotton dispute underlines that the application and enforcement of WTO rules is not a game of right or wrong. It is a game of big and little.

Measuring U.S. Support

Budget documents published by the U.S. government distinguish between program funding levels, which are a reflection of the budgetary authority (or the total amount of budgetary resources required to operate the Department and to fund all programs for the year), and outlays (which describes the total expenditures of the Department less administrative costs and after revenues are taken into consideration).

The U.S. Department of Agriculture (USDA) explains that the Program Level

> "represents the gross value of all financial assistance USDA provides to the public. This assistance may be in the form of grants, guaranteed or direct loans, cost-sharing, professional services such as research or technical assistance activities or in-kind benefits such as commodities."[87]

We were asked to conduct a comprehensive analysis. In determining the total value of support to U.S. agriculture, we have relied on program funding levels as the most appropriate indicator of the total value of support to U.S. agriculture. Program levels reflect the gross financial assistance in support of agriculture in a particular period. It is these program expenditures which support and distort U.S. agricultural production and trade.

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86 "Emerging economies slam new US farm bill at WTO", By Eliane Engeler, Associated Press, June 3, 2008
87 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg iii

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USDA and OMB (Office of Management and Budget) accounting practices and reporting are not always consistent or identical. Those who attempt to add up the parts to arrive at the overall program level numbers may be frustrated because of these differences.[88] But for our purposes the most important measurement of support is the overall program level.

The USDA Budget Summary explains:

> "Program level measures are used in most instances. However, there are some cases when other measures are used and the reader should take care to note which measure is being used."[89]

An underlying principle of our overall analysis is that cash is fungible and all support from Government influences production and marketing decisions no matter how indirect this support may be. Aggregate benefits are determined based on aggregate program levels. We have also addressed many parts of these programs, and calculated benefits to dairy in the aggregate, as well as benefits for each of the parts specifically addressed. As we explain below, it would be wrong and misleading to try to relate the allocations for selected parts analyzed to the whole.

We did not attempt to estimate the benefits of loans by calculating differences in benchmark and actual interest rates. Our objective is not to estimate the value of subsidies for a countervailing duty (CVD) investigation. We could not make assumptions about the availability of commercial credit to all borrowers under a program, nor about the credit-worthiness of the borrowers, individually or collectively. To rely on commercial rates as benchmarks, the borrower must be eligible to receive a loan from a commercial lending institution. We were not prepared to assume that all farm borrowers could or could not meet such commercial criteria.

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88 It is not our intent to criticize U.S. budgetary accounting practices. Revenue collection is a legitimate offset in the overall cost to the Treasury. But it does not reduce actual benefits to producers and processors. For example, Commodity Credit Corporation reports repaid loans as an offsetting collection listed as USD $9.065 billion as actual repayment in 2009. (We do not know which period these relate to and there is no record of defaults which will never be collected.) Although this is an appropriate measure for budgetary accounting purposes, the offset simply understates the actual support provided for U.S. agriculture by the U.S. Department of Agriculture (USDA) over the course of the year.

89 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg iii

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Some USDA program criteria indicate that loans are provided to producers who would otherwise not qualify to borrow from commercial lending institutions. In these circumstances, the benefit and value of the support provided by the Government is not simply the value of the reduced interest rate or guarantee, but is the value of the loan, i.e., having the use of working capital to operate the farm or plant a crop, or undertake other activities which would not otherwise be possible. The magnitude of the benefit is that the realized losses of the CCC from 1933 to 2009 inclusive were $466.19 billion. These losses were covered by special appropriations.[90]

The USDA also makes subsidized or guaranteed loans to producers who could qualify for loans from commercial lending institutions; indeed, it is a stated requirement for some programs that the borrowers be creditworthy or able to repay. In these cases, we have also considered the total value of the loans to be the value of support provided by the U.S. Government. Producers have access to these loans, which may supplement their normal credit lines, and rely on them to enable and support their production decisions.

While USDA does provide the subsidy value of concessional loans and guaranteed loan activities, such measurements do not capture the full value of the support provided to uncreditworthy farmers and ranchers. Whether or not loans are ultimately repaid (and experience tells us that often they are not or will not be), U.S. producers and processors have the benefit of loans which are *de facto*, subsidized working and infrastructure capital in excess of $9 billion. These loans may supplement conventional lines of credit and borrowing ability, at significantly less cost and risk to the borrower. They provide significant benefits to U.S. agriculture and must be included in the scope of our calculations.

Our methodology is designed to capture the full value of financial support by the U.S. Federal Government under all programs. The fact that the USDA may recover revenue from past expenditures and loans through the course of the year, may reduce the actual net cost to the U.S. Treasury, this does not change the fact that total support in the period is significantly greater than this net amount.

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[90] UDSA Budget Appendix for 2011, pg 115

On the other side of the ledger we did not attempt to calculate the benefits of income support programs or price supports because we did not have the information available to do so. Our decision to exclude such benefits from our analysis understates the amount of benefits in the aggregate to both U.S. agriculture and to the dairy sector.

Program levels for USDA are reported in the FY 2011 Budget Summary as follows:

2009 (Enacted)	$180,829,000,000
2010 (Estimate)	$175,507,000,000
2011 (Budget)	$177,131,000,000

Early in 2009, the American Recovery and Reinvestment Act provided USDA with an additional $28 billion in funding. These stimulus funds provided nearly $52 billion in program funding through a host of guaranteed loan programs. ARRA funding is reflected in the FY 2011 budget summary.

In addition, the United States provides support to agricultural producers through irrigation programs operated by state and local governments. This undeclared irrigation support takes the form of subsidized water and electricity rates to operate the systems.

The U.S. Federal Government provides support through these programs in the form of support for irrigation infrastructure.

The United States notifies irrigation infrastructure support provided through the Department of Interior to the WTO. The most current notification, filed on March 4, 2009, covers the 2007 marketing year. And the U.S. underreported it at $239,545,000,000. Some commentators consider these reported data to be seriously underreported.

State and local government provide much greater irrigation benefits to agriculture in the form of subsidized water and electricity. These benefits are not reported to the WTO. We estimate for purposes of this report that such benefits are worth about $21.5 billion annually.

Finally, the U.S. Federal Government provides indirect support to agricultural producers through biomass energy tax incentive programs that encourage the production of feed grains and oilseeds used in processing ethanol and, to a lesser extent, biodiesel. As the total value of tax incentives are not set out in the budget, GCS determined the total value of the tax incentive provided under this program by multiplying the total quantity of ethanol used in the production of biomass fuel by the tax credit provided. For 2009, the total cost to government of the biomass energy incentive program was US$4,770,000,000.

State and Local Support

To determine the value of support and subsidies to agricultural production provided by U.S. State and Local Government, GCS reviewed the total value of support as reported in the available budgets of state Departments of Agriculture. In addition, we estimated the total value of support provided through subsidized water for irrigation programs in the states benefiting from these programs. We have not been able to add the benefits of subsidized electricity rates used to operate the irrigation systems.

Through the federal Freedom of Information Act, the Environmental Working Group (EWG) obtained U.S. Bureau of Reclamation documents that enabled us to determine that for the first time the rate paid by CVP agribusinesses and the very significant size of their power subsidy. (We will be trying to obtain information on power subsides in other districts.)

EWG found:

- In 2002 and 2003 CVP agribusinesses paid only about 1 cent per kilowatt-hour (kWh) for electricity used to transport irrigation water.
- CVP power rates were 10 to 15 times lower than PG&E’s industrial, agricultural, and residential power rates during this time period.
- In 2002 and 2003 CVP agribusinesses received power subsidies worth $115 and $105 million, respectively, when compared to PG&E’s agricultural electricity rates.

- The power that the Bureau of Reclamation sells to CVP agribusinesses for the storage and transportation of Project water is essentially unregulated. No government agency, other than the Bureau itself, oversees its rates.
- One CVP water district gets more power subsidies than all others combined: Westlands Water District, which is dominated by a handful of large cotton growers in Fresno and Kings counties. In 2002 alone Westlands' power subsidies were worth more than $71 million, an average of $165,000 per farm.

The Bureau often downplays the amount of energy it takes to run the CVP, pointing to the fact that the Project's hydroelectric plants generate about five and a half billion kWh each year compared to the approximately 1 billion kWh required to pump irrigation water around the system. Yet this argument ignores the fact that while millions of municipal and industrial users benefit from the "left over" power, fewer than 7,000 private agribusinesses benefit from the power used for pumping.

And while Congress intended to subsidize agricultural water to some degree when it authorized the construction of federal water projects in the early 1900's, the current situation in the CVP is radically different than what the lawmakers envisioned. Congress specified that water subsidies should only be given to small family farms, yet today corporate agribusinesses thousands of acres in size are receiving federal subsidies. The original purpose of the subsidies - to help settle the then sparsely populated Western U.S. – is also clearly obsolete.

Moreover, many CVP agribusinesses are enjoying not just one kind of government subsidy, but several. In addition to federal energy subsidies, Department of Agriculture data show that from 1995 to 2004, CVP agribusinesses received more than $890 million in direct commodity payments, mostly for cotton and rice. An earlier EWG investigation conservatively estimated the value of CVP water subsidies at $416 million in 2002. In total, federal subsidies to the CVP easily top more than half a billion dollars a year and could well reach $1 billion all at taxpayers' expense.

The 2008 percentage share of dairy in farm receipts in individual states' total farm receipts was used to calculate budgetary allocations to the dairy sector. We generally have not been able to adjust state allocations to reflect dairy specific programs that were directly beneficial to dairy producers because of a lack of detail in state budgets.

The total value of support for 2009 reported in state level Agriculture Department budgets is $3,256,266,716. We believe this estimate significantly understates the total value of actual support provided to agricultural producers by U.S. State and Local Governments.

We have added $21.5 billion to the estimated state benefits to reflect the estimated value of subsidized water provided for irrigation of agricultural land. This brings the state and local government total to $24,756,226,716 and the allocation to the dairy sector to $2,719,850,228.

A. U.S. Federal Support to Dairy Farmers

Some 15 years after the U.S. took on WTO obligations to reduce farm support, U.S. financial support provided to U.S. dairy producers remains very high. Based on the review in this study, we have identified a total of $22,771,579,298 in direct and indirect federal subsidies and support for American dairy farmers in 2009. Expressed in terms of estimated 2009 U.S. milk production, this was equivalent to US$12.00 per cwt of milk produced. Expressed in Canadian dollars by using the Bank of Canada 2009 exchange rate average (1.142), the U.S. federal and state support to dairy was $13.70CAD per cwt or $31.11CAD per hectolitre.

We have relied on 2009 program level data to determine the value of U.S. federal government support to U.S. dairy producers because actual program levels and budgetary expenditures are not available beyond the 2009 fiscal year. In addition, the total value of U.S. agricultural production, in dollar terms, and the total value of U.S. dairy production, in dollar terms, are also available for 2009. This permitted us to work with more concrete numbers than the estimates for 2010 and 2011 set out in the Budget for Fiscal Year 2011. We have provided estimates for FY 2010 and FY 2011 for comparison purposes.

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The gross value of financial assistance on account of all agricultural programs and services, including USDA Departmental activities, is massive. Total USDA Program levels are as follows:[91]

2009	(Enacted)	$180,829,000,000
2010	(Estimate)	$175,507,000,000
2011	(Budget)	$177,131,000,000

Program levels refer to the gross value of all financial assistance provided by USDA and includes grants, guaranteed or direct loans, cost-sharing, professional services or in-kind benefits (i.e., commodities). [92]

The aggregate budget data cited above must not be considered in isolation.

In considering the total budget of U.S. federal support to agriculture, it is essential to include the value of irrigation infrastructure provided by the Department of the Interior. Irrigation is an integral part of the Farm subsidy framework. The Los Angeles Times reported:

> "Cheap irrigation water is part of the equation, but there is another common denominator. It's a massive federal legislation package passed every five years known as the farm bill."[93]

The serious delays in reporting to the WTO make such reports a resource of only the most marginal utility. Such serious reporting lags and under-reporting make it virtually impossible to access current information on actual expenditures and in turn to properly assess compliance with WTO obligations.

The principal focus of our analysis is recent and current support, not what an unpredictable Congress might do in the future. As noted earlier, President Obama has tried to reduce expenditures on agriculture:

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91 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 137 (We have not deducted loan repayments and revenue for reasons discussed in the report.)

92 Ibid., pg iii (We have not deducted loan repayments and revenue for reasons discussed in the report.)

93 "We'll reap what we sow; The farm bill is loaded with pork and environmentally disastrous provisions", By Daniel Imhoff, Los Angeles Times, April 10, 2008

> "President Obama's budget calls for an end to direct payments to "large agribusinesses that don't need them" but the proposal is likely to meet fierce opposition from farm-state lawmakers, particularly from the South….
>
> In 2006, for instance, the top 1 percent of farmers received 20 percent of all payments, according to the Environmental Working Group, a nonprofit advocacy group that maintains a database of farm subsidies. Among the largest recipients are rice and cotton farmers. Lawmakers from the South, Texas and California have historically fought hard against payment limits."[94]

> "Why should we be sending millions of dollars to the largest corporate farms in the country? That's not what a safety net is for," said Senator Byron Dorgan, North Dakota Democrat, who has long championed a cap on payments.
>
> The issue pits corporate farms against small operations, and farmers and lawmakers from the corn and soybean Midwest against those in the south who rely on cotton and rice. And it may pry open the 2008 Farm Bill for revisions."[95]

In FY 2009, Congress disagreed. Congress won and then again in 2010. Reaction to proposed FY 2011 cuts aimed primarily at capping payments to the wealthiest farmers do not appear to be any more likely to succeed, particularly, given the uncertain mid-term election situation[96].

USDA appears to be immune to serious budget cutting. Therefore, for purposes of this study we rely on data from the FY 2011 Budget documents.

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94 "Drilling Down on the Budget – Agriculture", By Andrew Martin, The New York Times, February 27, 2009

95 "Obama reignites fight over U.S. farm subsidies", By Roberta Rampton, Reuters News, February 25, 2009

96 "Campaign enters home stretch", WCF Courier, September 7, 2010

B. Analysis of U.S. Federal Government Support

1. Total Value of U.S. Federal Government Support in 2009

The total value of support to agriculture provided by the United States in 2009 is the sum of all USDA expenditures on account of all programs and Department activity, $180,829,000,000, and the total value of all irrigation-related support provided by the Department of Interior, Bureau of Reclamation, that is; $1,798,000,000,[97] and the total value of the biomass energy tax incentive, calculated to be $4,770,000,000 billion in 2009. Therefore, GCS has estimated the total value of U.S. federal support for agriculture for 2009 for purposes of our analysis to be $187,397,000,000.

Overview of U.S. dairy industry

- Milk has a farm value of production second only to beef among livestock industries and equal to corn.
- Dairy farms, overwhelmingly family-owned and managed regardless of size, are generally members of producer cooperatives.
- Dairy products range from cheese, fluid milks, yogurt, butter, and ice cream to dry or condensed milk and whey products, used mostly as ingredients in processed foods.
- Cheese and fluid milk products now use most of the milk supply.
- Government traditionally has regulated both sanitary and market aspects of the dairy industry.
- Historically, international trade in dairy products has only occasionally been important for the U.S. dairy industry. In coming years, however, international trade may have a greater impact on the domestic industry.[98]

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[97] There is considerably more irrigation support provided at the level of sub-national governments. This support is addressed in Part II of the study.

[98] www.usda.gov

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Farm Milk Production

Major trends in milk production in the United States include: 1) a fairly steady slow increase in production as gains in milk production per cow outweigh declines in the number of cows; and 2) a consistent decline in the number of dairy operations, matched by a continual rise in the number of cows per operation.

Since 1970, milk production has risen by almost half, even though milk cow numbers have declined by about a fourth (from about 12 million to roughly 9 million in 2008). Milk production per cow has nearly doubled from 9,700 pounds per year to 19,142 pounds in 2008. Similarly, the number of dairy operations declined from about 650,000 in 1970 to roughly 90,000 in early 2008, while over the same period the average herd size increased sevenfold from about 20 cows to 168 cows.

Milk is produced in all 50 States. The top 10 producing States in 2009 were:

- California
- Wisconsin
- New York
- Idaho
- Pennsylvania
- Minnesota
- Texas
- New Mexico
- Michigan
- Washington

As this list indicates, the major milk-producing States are in the West and North. The relative importance of the western regions has grown, while other regions have declined or remained steady. Western areas have had lower average costs of milk production for a variety of organizational and climatic reasons.

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Most dairy cows in the United States are Holsteins, a breed that tends to produce more milk per cow than other breeds. The composition of Holstein milk in approximate terms is 87.7% water, 3.7%milkfat, and 8.6% skim solids.

In the United States, the decision to produce milk largely rests in the hands of individuals or families. Many of these farmers belong to producer-owned cooperatives. The cooperatives assemble members' milk and move it to processors and manufacturers. Some cooperatives operate their own processing and manufacturing plants. Initially local, many of today's dairy cooperatives are national, with members scattered across the country.

Dairy Trade

International dairy trade absorbs only about 5% of the cow's milk produced globally. The trade is primarily in major manufactured dairy products—butter, cheese, and dry milk powders—with some trade in fluid milk products, ice cream, yogurt, and dry whey products.

The United States has not been a major exporter of dairy products on a sustained basis. There have been sporadic unsubsidized exports of butter and nonfat dry milk powder over time, but more often some subsidy has been required. In 2007-08, the United States was able to take advantage of significant export opportunities due to tighter global stocks, drought-induced production declines in Oceania, rising demand in foreign countries and the weaker dollar in 2007. The United States is an important importer of relatively large (although mostly fixed) amounts of cheese.

Prior to the conclusion of the Uruguay Round Agreement on Agriculture, the United States employed explicit dairy product import quotas to shield the domestic dairy industry and Federal price support programs from international dairy markets. As a member of the World Trade Organization (WTO), the United States, along with many other dairy-producing countries, established tariff rate quotas (TRQs) for dairy products. The TRQs allow imports at very low tariffs up to fixed amounts. Any additional imports are subject to very high tariffs. Many of the individual TRQs are administered through licenses for imports of specific products from specific countries or regions.

Dairy Policy

Dairy policy in the United States includes both Federal and State programs. The two major Federal dairy programs are the system of Federal milk marketing orders and the milk price support program. Government programs designed to assist international trade and provide domestic and international food aid also affect the dairy industry.

Price Support Programs

The current purchase program for supporting farm milk prices started with the Agricultural Act of 1949 and has been amended several times since then. The Food, Conservation, and Energy Act of 2008 (2008 Farm Act) makes a fundamental change in the milk support purchase program by specifying the support prices of purchased manufactured products, not the price of milk. The Commodity Credit Corporation (CCC) will buy butter, cheddar cheese, and nonfat dry milk offered to it that meet specifications. The support purchase prices are:

- not less than $1.05 per pound for butter,
- not less than $1.13 per pound for cheese in blocks,
- not less than $1.10 per pound for cheese in barrels, and
- not less than $0.80 per pound for nonfat dry milk.

The CCC authority to adjust relative purchase prices of butter, Cheddar cheese, and nonfat dry milk is restricted until purchases reach quantity levels specified in the 2008 Farm Act. CCC can make unrestricted inventory sales to the industry at specified prices (at least 10% above the purchase price).

The ***Dairy Export Incentive Program (DEIP)*** pays cash bonuses that allow dairy product exporters to buy at U.S. prices and sell abroad at prevailing (lower) international prices. DEIP removes nonfat dry milk, butterfat, and certain cheeses from the domestic market, helps develop export markets, and has played an important part in milk price support since the 1990 Farm Act. DEIP quantities and dollar amounts are subject to World Trade Organization (WTO) restrictions under the Uruguay Round Agreement on Agriculture. The 2008 Farm Act emphasizes use of DEIP to its maximum, subject to U.S. trade obligations.

National Dairy Market Loss Payments

The 2008 Farm Act authorizes continuation of a national ***Milk Income Loss Contract*** (MILC) program to provide income stabilization for dairy producers. However, program parameters are much more specific. A monthly direct payment is to be made to dairy operations if the monthly Class I price in Boston (Federal Order 1) is less than $16.94 per hundredweight (cwt) (as adjusted to reflect dairy feed costs). Payments are to be made on up to 2.985 million pounds of milk per fiscal year per operation during October 1, 2008, to August 31, 2012, using a rate of 45% of the difference noted above. The number of producers per operation does not affect its limit.

Fluid Milk Marketing

Federal ***Milk Marketing Orders*** were first authorized by the Agricultural Marketing Agreement Act of 1937 and have been modified many times since then. These orders are intended to help establish orderly marketing conditions for the benefit of both milk producers and dairy product consumers. A classified pricing system and revenue pooling are the two key elements of milk marketing orders. Milk marketing orders define the relationship among prices of fluid and manufactured dairy products and a geographic price structure, sometimes called the price surface.

The 1996 Farm Act called for several changes in milk marketing orders, including consolidation of the then existing 31 orders. In 2009, there are 10 Federal milk marketing orders. The elements of the 2008 Farm Act related to Federal milk marketing orders focus on processes under the system’s regulations and on evaluation of effects—not on major program changes.

Economic Implications

The economic impacts of changes in the dairy price support program and in the MILC program are noteworthy, but in different ways. The price support program changes are not expected to greatly alter the effects from those of a program with a specified support level for milk. However, the purchase prices for butter, Cheddar cheese, and nonfat dry milk provide a lower level of support than the milk support level under prior legislation because of changes in the estimated costs that are used to calculate milk prices from dairy product prices. On a manufacturing milk price basis, support is about 55 cents per hundredweight lower.

Changes to the MILC program increase payment levels. A simple example illustrates the general impacts. The original MILC program included calculation of payments to eligible producers (farms) based on a target price of $16.94 per cwt and a reference price defined as the Class I price in Boston, MA. When the reference price is less than the target price, a payment rate per cwt of 45% of the difference is calculated and paid on milk production up to 2.4 million pounds per operation per year.

The 2008 Act specifies fiscal year payment rate and quantities of eligible milk production for three specific periods:

- For October 1, 2007-September 30, 2008, the payment rate is 34% of difference between $16.94 per cwt (as adjusted) and the Class I price in the Boston milk marketing order for the applicable month on up to 2.4 million pounds of milk marketings.

- For October 1, 2008-August 31, 2012, the payment rate is 45% of difference between $16.94 per cwt (as adjusted) and the Class I price in the Boston milk marketing order for the applicable month on up to 2.985 million pounds of milk marketings.

- Beginning September 1, 2012, the payment rate is 34% of difference between $16.94 per cwt (as adjusted) and the Class I price in the Boston milk marketing order for the applicable month on up to 2.4 million pounds of milk marketings.

In addition, the target price is adjusted for feed cost impacts so that it is no longer strictly a fixed price. The $16.94 price is adjusted by the percentage that National Average Dairy Feed Rations Cost exceeds $7.35 per cwt for any month for period from January 1, 2008, through August 31, 2012. The target cost of feed rations increases to $9.50 per cwt beginning September 1, 2012.

To show the impacts of these changes, since the payments are made monthly, would be difficult. The following scenario is "assumed" to show per-operation effects of the alternative programs under the following specific conditions.

First, it is assumed that there will be a payment made and that the difference between the reference price and target price is $0.01 (one cent).

Second, the operation is assumed to produce the full amount of milk on which payments are made in one month that in each case is used to calculate a "one-time" payment.

Under the 2002 Act's program parameters, the payment would be $108.00 per operation [($0.01 per cwt x 0.45) x 2.4 million pounds].

Under the 2008 Act's program parameters, the maximum payment would be $134.33 per operation [($0.01 per cwt x 0.45) x 2.985 million pounds] for each penny of shortfall in the price. This would be 13,433.00 for each dollar of shortfall.

2. Direct and Indirect Support.

Financial support to agriculture in the U.S. must be examined in the aggregate to obtain a full and proper appreciation of its extent and depth. While we have estimated the values of direct and indirect support, we have not been able to estimate the benefits from price and income supports which supplement program support, nor tax exemptions because this information is not readily available. Because our calculations do not include all support; our estimates tend to understate actual benefits to U.S. agriculture, of all things done by the U.S. federal government.

3. Subsidies, Support and Tariffs

There is a direct competitive relationship (inter-linkage) between subsidies and support, on the one hand, and tariff protection, on the other. Tariffs on imported products supplement financial support to producers and processors. Subsidies both permit exporters to offset tariffs in importing countries, and supplement tariff protection in preserving farm incomes which would otherwise be reduced by import competition. Tariffs cannot be viewed in isolation. Nor can Market Access negotiations ignore the effects of domestic support on the ability of recipients to compete.

Many countries, including the United States, impose tariffs on imported products in order to restrict or regulate imports by increasing prices of such imports in order to protect or insulate its domestic producers and processors from import competition. This protection is particularly important in the case of sensitive products subject to tariff rate quotas (TRQ) which tend to be subject to highly subsidized import competition.

The subsidies and financial support provided by the United States benefit U.S. producers and processors by establishing, maintaining and increasing their competitive advantage[99] over imported agricultural products (which are often sold at very low subsidized prices which skew world markets). Because this competitive advantage is generally expressed in terms of lower prices for domestic agricultural products as compared to imports, the only effective means of competing with import competition in commodity-type products is to introduce border measures (tariffs) which make imports more expensive, or to provide income/price support to compensate for import pricing pressures.

U.S. producers and processors may retain some of the value of the subsidies and support provided by the U.S. federal government rather than relying on the entire value of the subsidy and support to reduce prices. It is not possible from the information available to us to determine to what extent this is occurring. (In the case of many commodity products, such as feed grains,

[99] This is not necessarily a natural advantage – government intervention makes it a seized advantage.

the price is set by supply and demand, meaning that subsidy-driven over production forces prices down, often triggering payment of even more support.) Our research and analysis demonstrates that U.S. producers are relying on the subsidies and support provided by government to sell at below their cost of production both at home and in export markets.

This conclusion is supported by the Institute for Agriculture and Trade Policy (ITAP), which in its February 2004 Update of its Report, "*United States Dumping on World Agricultural Markets*", observed:

> "The latest numbers available show a continued trend of widespread agricultural dumping from U.S.-based global food companies. In 2002, exports continued to be sold well below the cost of production:
>
> - Wheat was exported at an average price of 43 percent below cost of production;
> - Soybeans were exported at an average price of 25 percent below cost of production;
> - Corn was exported at an average price of 13 percent below cost of production;
> - Cotton was exported at an average price of 61 percent below cost of production;
> - Rice was exported at an average price of 35 percent below cost of production.
>
> While the 2002 data indicate an increase in dumping for cotton and rice, a decline for corn and soybeans, and a constant level for wheat, they are consistent with the trend of high levels of dumping for all five commodities over the last decade."[100]

Although the ITAP addressed dumping with respect to exports, the same price pressures apply to domestic sales by U.S. producers and processors. The "dumping" found by the ITAP is underwritten through U.S. subsidies and support, the same mechanisms that support[101] domestic production and sale of agricultural products. Thus, these subsidies are arguably import replacement subsidies, which are prohibited by Article 3(1)(b) of the WTO Agreement on Subsidies and Countervailing Measures.[102]

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[100] *United States Dumping on World Agricultural Markets, February 2004 Update*, Cancun Series Paper No. 1, pg 3

[101] In fact these subsidies encourage production, drive production down and increase exports.

[102] http://www.wto.org/english/docs_e/legal/24-scm.pdf

Thus, there is a relationship, an interlinkage, between subsidies and support and tariffs in terms of their affect on the competitive relationship between U.S. produced agricultural commodities and imports. Subsidies and support seize a competitive advantage for U.S. agricultural products by allowing them to be sold at lower prices in both export and domestic markets, including at prices significantly below cost of production.

While some agricultural products are not subject to high tariffs at the border, they benefit from safety net or income support measures which insulate them from international competition. These subsidies enable producers to "farm the mailbox" for their income, de-linking planting decisions from market conditions. Insulating planting and harvesting decisions from supply, demand and market forces results in surpluses sold on world markets at prices which need not and do not cover costs of production.

Products reflecting low prices both stimulated and supported by such subsidies include corn and feed grains. The U.S. corn situation is explained as follows:

> "… 2004 was the first year in which we produced more feed grain globally than we consumed. That is because of the large stocks we've accumulated over the years.
>
> One reason for lower prices is that in 2004, the United States had its highest planted corn acreage since the mid-1980s, …. Some market analysts are predicting that U.S. corn acreage might be up again this year."[103]

This process is not likely to end any time soon. A respected U.S. research institute projects:

> "The U.S. corn market share increases from 64 to 73 percent over the projection period". (2004-2014).[104]

And these activities supported by U.S. subsidies directly impact farmers in Canada and other markets.

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103 SouthEast Farm Press, March 11, 2005, "Large Feed Grain stocks set the stage for low prices"

104 Ascribe newswire, March 16, 2005, http://newswire.ascribe.org/cgi-bin, Agricultural Policy Research Institute Projects Rebounding U.S. Wheat Exports, Soybeans Concentration

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In a 2005 investigation of dumped and subsidized imports of grain corn from the USA, the Canada Border Services Agency determined that the following programs and incentives offered by the U.S. Government provide actionable subsidies:

- Direct and Counter-cyclical Payment Program (formerly Marketing Loss Assistance Payments)
- Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments
- Federal Crop Insurance Program

The CBSA estimated that the amount of subsidy for the CBSA's entire period of investigation was 18% of the export price of the subject goods shipped to Canada or US$0.45 per bushel. The CBSA stated that the amount of subsidy after a finding of injury would be US$0.87 per bushel.[105]

In the absence of evidence to the contrary, the CBSA assumed that 100% of the subject goods imported into Canada have benefited from the actionable subsidies.

The effect of these very large subsidies on many commodities around the world has been an important inhibitor to progress of the Doha Development Agenda (DDA) negotiations on Market Access. The Doha Declaration calls for improved market access (lower tariffs and larger tariff-free import quotas) for agricultural products traded internationally. It also envisages substantial reductions and eventual elimination of trade/production distorting domestic support. There is considerable doubt about the reality of expecting the U.S. to do this.[106]

Clearly, these U.S. subsidy programs stimulate production, create surpluses which must be exported, drive down prices, and force unsubsidized producers out of business. Absent real reductions in such subsidies, improving market access to importing countries poses serious risks for WTO members whose budgets do not permit such "deep pockets" support of their own agriculture sectors.

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[105] Subsidies were increasing because of falling market prices.

[106] "To unlock the agricultural negotiations the U.S. must first comply with the WTO rules", Jacques Berthelot, Solidarité, February 8, 2007

C. U.S. Federal Agricultural Support Programs

The U.S. Department of Agriculture (USDA) provides support through a vast array of programs ranging from Departmental administration and regulation, through inspection and grading services to economic analysis and education, resource management, insurance, loans and grants, direct payments and support, support for export sales and international and domestic food aid as a means of intervening in the market and eliminating surpluses. While some of its activities may appear ordinary day-to-day operations of government, USDA's pockets are very deep and the extent of U.S. support underscores the pervasive role government plays in the U.S. agriculture sector.

The federal subsidies and support examined and estimated in Part I of this report do not include State subsidies, and the generous support in the form of below-market price water provided through state and local irrigation projects. Including subsidies and support provided by state and local levels of government in our calculations, demonstrates more clearly that U.S. producers will retain a significant competitive advantage notwithstanding any domestic support concessions which may be made at some time in the future by the U.S. in WTO negotiations; either of a revived Doha Round or some future multilateral initiative at a more favourable time.

1. Programs that Directly Support Dairy Production

The United States maintains several programs that are designed specifically for dairy producers; these programs are discussed below. While these programs directly benefit dairy production and processors, they are not the only source of benefits to dairy producers. Dairy producers are entitled to participate in the full range of support subsidy programs generally available to all producers. Some programs, including those dedicated to feed grains, reduce input costs by insulating grain growers from market conditions, permitting dairy farmers who may also grow grains to feed their cattle at prices well below cost of production. Feed costs in the USA are estimated to represent about 20% of the cost of production.[107]

[107] Discussions with Dairy Farmers of Canada staff re: COP for milk in North America.

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Milk Income Loss Contract Payments: This is a price support program that compensates dairy producers by providing payments equivalent to 45% of the difference between the Boston Class I milk price and $16.94 per cwt, when the Boston Class I milk price falls below $16.94 per cwt. Total obligations under this program are estimated at.

2009	(Enacted)	$757,000,000
2010	(Estimate)	$225,000,000
2011	(Budget)	$100,000,000

Dairy Indemnity Payment Program: This program provides indemnity payments for milk removed from the market because of contamination. Total obligations under this program for FY 2009 were $ 1,000,000 and $1,000,000 million again in 2010.

Dairy Export Incentive Program (DEIP): This program, which has been extended to 2012, pays bonuses on the export of U.S. dairy products. Exporters apply for DEIP "bonuses" on export contracts. The "bonuses" are in the form of cash payments that allow the sale of U.S. dairy products at prices below the exporter's cost. The United States recognizes that this is an export subsidy program that is subject to U.S. export subsidy volume and value commitment levels. The expenditures on account of DEIP are set at $116,600,000 for 2009.

Because U.S. dairy products were competitive in overseas markets in 2008 due to favourable market conditions, no bonuses were awarded under DEIP. Changes in market conditions in 2009 including declining competitor prices and reduced demand, have lowered U.S. commercial export sales. If conditions warranted a resumption of DEIP payments, the budget assumed a funding level of $100 million for 2009 and $25 million for 2010. The funding level was lower in 2010 because it is assumed that most of the allowable quantity of dairy products that can be subsidized under the U.S. commitments to the World Trade Organization (WTO) for the July 1, 2009 to June 30, 2010 period would be used in fiscal year 2009, leaving a smaller quantity eligible for DEIP bonuses in fiscal year 2010.

Milk Market Orders Assessment Fund: This is an important dairy price support program. Marketing Orders establish the minimum price that handlers are required to pay for milk purchased from producers. Total new budget authority to support this program was reported as $54,000,000 for 2009 and $56,000,000 estimated for 2010. This estimate does not include any price support benefits. Indeed, as we note elsewhere in this report, because we have not calculated and included price and income support benefits to dairy farmers, our analysis understates the value of government support to U.S. dairy farmers.

Dairy Product Price Support Program: The Dairy Product Price Support Program, which is effective for calendar years 2008–2012. It requires the Secretary to support the price of cheddar cheese, butter and nonfat dry milk through purchases of such products at prices not less than $1.13 per pound for cheddar cheese in blocks, not less than $1.10 per pound for cheddar cheese in barrels, not less than $1.05 per pound for butter, and not less than $0.80 per pound for nonfat dry milk. Purchase prices for milk products may be adjusted lower based on preset levels of product net removals. The 2008 Farm Bill extends the MILC program through September 30, 2012. The payment calculation percentage is raised from 34% to 45% and the payment quantity is raised from 2,400,000 to 2,985,000 million pounds per fiscal year effective October 1, 2008 through August 31, 2012. A feed cost adjuster is added that raises the $16.94 base price when the national average ration cost exceeds $7.35 per hundredweight.

The 2011 budget lists the following program levels:

2009	(Enacted)	$14,000,000
2010	(Estimate)	$17,000,000
2011	(Estimated)	$11,000,000

2. Domestic Support Programs

U.S. domestic support to agriculture includes a broad range of direct payment programs, counter-cyclical payment programs, non-recourse market loan programs, farm ownership and operating loans and grants and emergency assistance. This program support is provided primarily through the Farm Services Agency and the Commodity Credit Corporation.

The U.S. domestic support system is revamped and strengthened through successive Farm Bills.

Government support to U.S. agricultural producers goes far beyond commodity and income support or "safety-net" programs to include grants and loans and disaster assistance. The U.S. Farm Bill goes well beyond risk management. Its focus is risk elimination.

The 2011 USDA Budget Summary indicating total budgetary allocations for the Commodity Credit Corporation are $11,442,000,000 for 2009; 11,927,000,000 for 2010 and $11,446,000,000 for 2010.[108] The support provided through the Commodity Credit Corporation alone would constitute a significant portion of the $181 billion referred to above; indeed, funding of support through CCC activities, will exceed this by a significant margin.

CCC net outlays have declined from a record high of $32.3 billion in 2000 to $9.1 billion in 2008, reflecting higher prices for most commodities resulting from increased demand for bioenergy production and strong export demand. Outlays in 2009 include the impact of 2008 Farm Bill provisions; $11,442,000,000 was enacted. They also reflect greater outlays for dairy support programs and for the cotton program, both of which are affected by lower market prices in 2009.

The FY 2011 USDA Budget shows the following CCC net outlays:[109]

2009	(Enacted)	$11,442,000,000
2010	(Estimate)	$11,927,000,000
2011	(Budget)	$11,446,000,000

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108 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 31
109 Ibid.

The domestic support programs benefit a broad range of U.S. producers, including U.S. dairy producers. Dairy production, according to USDA is just behind beef and equal to corn in terms of benefits.

3. Export Subsidy Programs

The United States has eliminated funding under the Export Enhancement Program in the 2008 Farm Bill. However, there is full flexibility under the DEIP to use all available and necessary funds. Based on our analysis these do not represent the full range of export support programs available to U.S. producers and processors. The full value of export subsidies provided by the U.S. has not been notified to the WTO and is well in excess of U.S., Uruguay Round export subsidy volume and value commitments.

The **Dairy Export Incentive Program** is a recognized and admitted export subsidy program. It provides support within the export subsidy commitments of the U.S. Schedule to the WTO Agreement on Agriculture. While our analysis demonstrates that the United States maintains a broad range of export subsidy programs, these are the only programs that it actually admits provide export subsidies.

The United States provides substantial support to its agricultural exporters through **Export Credit Guarantee Programs** (GSM-102 and the Facility Guarantee Program (FGP)).

These programs provide low-cost (and below cost) export credit guarantees to support the export sale of U.S. agricultural products. The Panel in *United States – Upland Cotton*[110] determined that these programs provide export subsidies in violation of U.S. obligations. The Panel findings were confirmed by the Appellate Body.[111] The programs remain in force, are more generous and the U.S. has still not properly implemented the *Upland Cotton* findings.

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110 World Trade Organization (WTO), *United States—Subsidies on Upland Cotton*; Report to the Panel (WT/DS267/R), 8 September, 2004

111 WT/DS267/AB/R, March 3, 2005, para 763(e)

These now condemned export subsidy programs provide support that is vital to the continued export sale of U.S. agricultural products. Expenditures under these programs provide significant support to U.S. agriculture, and must be calculated in determining U.S. compliance with its WTO export subsidy commitments.

The United States provides funding through its **Market Development Programs** including the Market Access Program (MAP) to support exports of U.S. agricultural commodities. These programs provide direct payments and other support to corporations, trade associations and other entities to support their export activities and to develop overseas markets for U.S. agricultural commodities. These programs provide subsidies that are contingent on export performance or are designed to promote exports and, on that basis, must be considered export subsidies.

In addition to these programs, the United States maintains a number of international food aid programs. The misuse of international **food aid** can be an export subsidy. Article 10(4) of the Agreement on Agriculture permits provision of international food aid that is not tied, directly or indirectly, to commercial exports of agricultural products; that is carried out in accordance with FAO Principles of Surplus Disposal and Consultative Obligations and which is provided to the extent possible in fully grant form or on terms no less concessional than those set out in the Food Aid Convention. The USA can and does donate foods under its programs in a manner that does violate its WTO obligations. In the past the United States has relied on these programs to support domestic producers by disposing of surplus commodities on the international market and could do so in future. Any such provision of international food aid outside the bounds of AoA Article 10(4) would constitute an export subsidy that must be included in calculating U.S. export subsidy commitments.

4. De Facto and Article 9.1(c) Export Subsidies

It is important to analyze de facto export subsidy effects of U.S. domestic support (see Article 9.1(c)) when assessing overall U.S. support of agriculture, and the extent of adverse effects of massive U.S. domestic support in world markets.

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By de facto export subsidies we mean the use of what appear to be domestic subsidies and support which stimulate overproduction of important commodities such as corn, other feed grains, cotton and soybeans that have historically been sold on export markets. Traditional U.S. domestic support programs have stimulated production of these commodities to levels well in excess of domestic requirements. While available supplies of feed grains were very tight, in view of the renewable fuel programs, the subsidies continued. The "domestic" support provided to farmers to grow these commodities effectively stimulates surpluses and supports export sales. The value of these export subsidies is substantial and pursuant to recent WTO dispute settlement decisions, must be counted against United States' export subsidy commitments.

WTO Agreement on Agriculture Article 9.1(c) export subsidies are payments financed by virtue of governmental action that are made on the export of agricultural products and include payments by producers in the form of sales made at less than cost. Based on WTO DSU interpretations, U.S. producers arguably provide very generous Article 9.1(c) export subsidies to support export sales of many commodities. These export subsidies should be counted against U.S. export subsidy commitments. We recognize that these export subsidies result from the existence of U.S. domestic support programs, which stimulate surpluses and permit export sales below average cost of production. We should not logically count the same support as both domestic and export subsidies. We have not included these subsidies in our overall estimate of U.S. federal support for the reasons explained above.

To assist in understanding the current WTO status on these subsidies, we refer to the following extract from the Panel report on *European Communities – Export Subsidies on Sugar*. The Sugar Panel recognized the impact of domestic support on world market markets.

> "7.307 Important by-products of this production support are structural surpluses, with EC sugar production substantially in excess of consumption. Consumption averages around 12.5 million tonnes, whereas production ranges between 15-18 million tonnes. In addition to sugar manufactured from domestically harvested beet or cane, a further 1.8 million tonnes of sugar is manufactured from raw cane sugar imported mainly from ACP countries. The regime ensures that domestic production surplus to consumption is disposed of on export markets. Approximately 20 percent of all sugar produced is exported."

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The Appellate Body (AB) in its decision in *Canada – Dairy* introduced the concept of cross-subsidization into the WTO AoA. They explained:

> "Canada also objects that this reasoning brings "cross-subsidization" under Article 9.1(c) of the Agreement on Agriculture. We have explained that the text of Article 9.1(c) applies to any "governmental action" which "finances" export "payments". The text does not exclude from the scope of the provision any particular governmental action, such as regulation of domestic markets, to the extent that this action may become an instrument for granting export subsidies. Nor does the text exclude any particular form of financing, such as "cross-subsidization". Moreover, the text focuses on the consequences of governmental action ("by virtue of which") and not the intent of government. Thus, the provision applies to governmental action that finances export payments, even if this result is not intended. As stated in our Report in the first Article 21.5 proceedings, this reading of Article 9.1(c) serves to preserve the legal "distinction between the domestic support and export subsidies disciplines of the Agreement on Agriculture". Subsidies may be granted in both the domestic and export markets, provided that the disciplines imposed by the Agreement on the levels of subsidization are respected. If governmental action in support of the domestic market could be applied to subsidize export sales, without respecting the commitments Members made to limit the level of export subsidies, the value of these commitments would be undermined. Article 9.1(c) addresses this possibility by bringing, in some circumstances, governmental action in the domestic market within the scope of the "export subsidies" disciplines of Article 3.3."

The Appellate Body in *Canada – Dairy* established that contrary to the understanding of many WTO members, there were previously unrecognized obligations which can result in export subsidies, where none were believed to exist. There have been similar findings against E.U. policies and based on the Appellate Body's logic, a number of U.S. programs are also at risk.

According to AB in *E.C. – Sugar* relying on *Canada – Dairy* Panel, there is no need for "payments" to be financed by a government mandate or direction.

> "7.324 The Panel recalls that the "demonstrable link" and clear "nexus" between the "financing of payments" and the "governmental action" must be established in order to qualify as a payment "by virtue of governmental action". In *Canada – Dairy* (Article 21.5 – New Zealand and U.S. II), the Appellate Body stated that "Article 9.1(c) embraces the full-range' of activities by which governments ' 'regulate', 'control' or 'supervise' individuals'. In particular, it said that governmental action 'regulating the supply and price of milk in the domestic market' might be relevant 'action' under Article 9.1(c). It added that "Article 9.1(c) does not require that payments be financed by virtue of government 'mandate', or other 'direction'. Although the word 'action' certainly covers

> situations where government mandates or directs that payments be made, it also covers other situations where no such compulsion is involved.
>
> 7.325 Of particular relevance in the present dispute is the Appellate Body's discussion of the word "financed" (by virtue of governmental action) which refers to the "mechanism or process" put in place by the government: "The word refers generally to the mechanism or process by which financial resources are provided to enable 'payments' to be made"."

In our de facto export subsidy analysis, we have focused on sales at less than cost of production, as the decisions in *Canada – Dairy* requires us to do so – as did the Panel in *E.C. – Sugar*.

> "7.297 The Panel acknowledges, as was stated by the Appellate Body in *Canada – Dairy* (Article 21.5 – New Zealand and U.S.), that normal economic operators must cover their total costs of production and if they do not, this may be evidence that they receive an advantage of some sort:
>
> "For any economic operator, the production of goods or services involves an investment of economic resources. In the case of milk producer, production requires an investment in fixed assets, such as land, cattle and milking facilities, and an outlay to meet variable costs, such as labour, animal feed and health-care, power and administration. These fixed and variable costs are the total amount which the producer must spend in order to produce the milk and the total amount it must recoup, in the long-term, to avoid making losses. To the extent that the producer charges prices that do not recoup the total cost of production, over time, it sustains a loss which must be financed from some other source, possibly "by virtue of governmental action".
>
> 7.298 The Panel recalls that in the ordinary course of business, a private business or economic operator would make the decision to produce and sell a product, not only to recover the total cost of production, but also with the objective of making profits. The Panel is of the view that export sales below total cost of production cannot be sustained unless they are financed from some other source, possibly "by virtue of governmental action".
>
> 7.299 The Panel recalls that the Appellate Body in *Canada – Dairy* (Article 21.5 – New Zealand and U.S.) determined that the appropriate "benchmark" to assess the proper value of the subject good, considering the facts and circumstances of the dispute, was the average total cost of production of the CEM milk. In determining the proper value to the producer, a payment analysis "requires a comparison between the price actually charged by the provider of the goods or services … and some objective standard or benchmark which reflects the proper value of the goods or services to their provider…". In that dispute the Appellate Body, in search of an objective standard that would establish the proper value of milk to the milk producer, found that the average total cost of production took best into account the "motivations of the independent economic operator who is

> making the alleged 'payments'" and the value of milk to it. The Appellate Body used this benchmark as it answered the "crucial question, namely, whether Canadian export production has been given an advantage"." (emphasis added)

There are important domestic support programs in the U.S. which result in un-notified AoA Article 9.1(c) subsidies, on the basis that in the words of the Appellate Body:

> "If governmental action in support of the domestic market could be applied to subsidize export sales without respecting the commitments (on exports), the value of these commitments would be undermined." (emphasis added)

Based on the WTO DSU decision in *Canada – Dairy*, benefits may be calculated based on the exports made at prices not reflecting full average cost of production. However, preparing such calculations was beyond the scope of this study. As noted earlier, in preparing our estimates, we recognized that the de facto export subsidies at issue are, in fact, the result of misused and misguided domestic support programs that are already counted in the overall domestic subsidy estimate. Therefore, we have not separately calculated for inclusion in our estimate of support and subsidies deemed to be de facto export subsidies.

Although this report neither includes nor attempts to calculate the value of de facto and Article 9.1(c) export subsidies separately, it is important to address the existence of these subsidies and their relevance for U.S. export subsidy commitments. The Article 9.1(c) de facto export subsidies relied on by U.S. producers to sell their products onto the world market have not been notified to the WTO nor have they been counted against U.S. export subsidy commitments. The United States is not permitted to provide export subsidies in excess of the bound levels in its Schedule to the Agreement on Agriculture. The total value of these subsidies must be considered to determine whether the United States has provided export subsidies in excess of its bound WTO commitments. These commitments set out the maximum amount of export subsidies that may be used to support the export sale of a maximum volume of specific products. To the extent that the United States provides export subsidies in excess of its bound limits, it is in clear violation of its WTO export subsidy obligations.

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In light of the total value of support provided through de facto export subsidies and Article 9.1(c) export subsidies, we conclude that the United States has exceeded and will likely continue to exceed, its Uruguay Round export subsidy commitments.

Five crops have traditionally received the lion's share of U.S. domestic support - wheat, corn, soybeans, rice and cotton. These crops are traditionally produced in substantial volumes, well in excess of domestic needs. The resulting surpluses must be sold on export markets and U.S. programs permit such sales below average cost of production.

Soybeans and corn are prime examples of commodities that are highly subsidized in the United States, resulting in significant over-production that must be sold onto the world market. (It is also relevant that both corn and soybeans are used in feeding dairy cattle providing benefits to dairy farmers through reduced feed costs.)

An August 2003 Oxfam Briefing Paper entitled *Dumping Without Borders: How U.S. Agricultural Policies are Destroying the Livelihoods of Mexican Corn Farmers*, analyzed U.S. agricultural policies supporting corn production and the impact of U.S. corn exports on Mexican producers. Oxfam noted that corn is the leading U.S. crop, both in terms of area planted and value of production. Oxfam reported that U.S. corn production has risen steadily over the past 30 years due to a number of factors, not least of which is the fact that the sector is the largest single recipient of U.S. Government payments.[112] The United States supplies more than 50% of the world market for corn, so that the U.S. export price influences world prices.[113] The Oxfam report notes that:

> "U.S. agricultural policy has been deliberately tailored over the last twenty years to generate a surplus for export, and to provide adequate incomes for U.S. farmers."[114]

Oxfam quoted Senator Norman Coleman (R-MN)[115] on the need for export market access for U.S. corn production:

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[112] *Dumping without Borders: How U.S. Agricultural Policies are Destroying the Livelihoods of Mexican Corn Farmers*, Oxfam Briefing Paper 50, August 2003, pg 9
[113] Ibid., pg 12
[114] Ibid., pg 10

> "The bottom line is we produce more than we can consume in this country so we need access to foreign markets if our farm families are to earn a decent living."[116]

Senator Coleman could not have established better the production and trade distorting nature of U.S. "domestic" support and its export subsidy effects.

The United States is also a very substantial producer and exporter of **soybeans**. When exports of soybean oil and meal are included, U.S. exports of soybeans exceed one-half of domestic production.

In 2003, the USITC (U.S. International Trade Commission) reviewed U.S. domestic support and export subsidy programs that benefit U.S. oilseed and soybean production. They reported:

> "During 1997 – 2001, key competitive factors in oilseed trade and production – namely price, transportation and infrastructure costs, and foreign exchange rates – disadvantaged USA oilseed exporters, who have continuously lost world market share since the early 1980s. ***Without U.S. Government intervention, U.S. oilseed production and trade would have been much more adversely affected***." [emphasis added][117]

Can U.S. domestic support programs be considered *de facto* export subsidies if U.S. legislators and officials did not "intend" to support production for export sale? Is it necessary that they should have been aware that there would be exports? Is it necessary to find admissions in program documents, legislation, regulations or statements by senior Administration officials that effectively say "we have provided domestic support in the expectation that excess production will be exported"? While this would be powerful evidence to support the existence of *de facto* export subsidies, it cannot be the only evidence. The support activities and the clear effects of these activities speak louder than words.

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115 *The Future of U.S. Economic Relations in the Western Hemisphere*, Senator Norman Coleman speaking before the U.S. Senate, Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs, Committee on Foreign Relations, Washington, D.C., Tuesday, May 20, 2003

116 Ibid., pg 9

117 Industry & Trade Summary, Oilseeds, USITC Publication 3576, February 2003, pg 25

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Year after year the United States produces far more corn and soybeans and other commodities than it can possibly use and the excess must be exported. This is not simply a matter of bumper crops that resulted from favourable planting, weather conditions and yields.[118] Rather, planting decisions are made based on expected returns, which in the U.S. include "safety net" support received from government which insulates producers from market conditions, including supply and demand.

Would the United States supply approximately 50% of the world corn market if Government did not provide such generous support to its corn producers permitting them to sell year after year at less than cost of production? In the absence of this support, and if the actual cost of growing corn and obtaining all revenue from the marketplace were real disciplines, it is far more likely that U.S. corn producers would make different planting decisions. The level of U.S. corn exports would be determined by market forces rather than be driven by government support programs. Therefore, the decision to provide support year after year that results in perpetual over-production and surpluses that must be exported, should be considered *de facto* export subsidies. The value of this support should be counted against U.S. export subsidy commitments.

As previously discussed, these subsidies which distort production and exports, particularly exports at less than cost of production have been found to be export subsidies in *Canada – Dairy* and *E.C. – Sugar*. Clearly, Article 9.1(c) of the Agreement on Agriculture should be applied to U.S. exports benefiting from domestic support which enables them to be sold on world markets at less than fully absorbed cost of production.

Because these subsidies have been reported as domestic support we have not reported them as export subsidies in order to avoid double counting. This additional analysis underlines the serious production and trade distorting effects of U.S. domestic support.

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118 Above normal yields can exacerbate over-production as did occur in the U.S., for example, in 2004

5. Domestic and International Food Aid

The United States Federal Government provides domestic and international food aid through a number of programs which provide significant support to U.S. agriculture. Such support can be provided without violating WTO obligations (if aid is provided in a manner that is fully consistent with Annex 2(4) to the Agreement on Agriculture with respect to domestic food aid and Article 10(4) of the Agreement on Agriculture with respect to international food aid). Whether or not this support is exempt from U.S. domestic and export subsidy obligations (and we consider that it is not consistent), these programs allow the U.S. Federal Government to intervene in the market with the result that prices are supported to the benefit of U.S. producers.[119]

6. Irrigation Programs

The United States provides extensive support to agricultural producers through the provision of low-cost water for irrigation. There are approximately 130 irrigation projects in 11 western states that promote and support U.S. agriculture. By far the major portion of support to U.S. agricultural producers through these programs comes from the provision of subsidized water and electricity by state and local governments which is addressed in Part II of this study.

The U.S. Federal Government, through the Department of the Interior, Bureau of Reclamation, is responsible for developing and maintaining the irrigation infrastructure. The Department notifies an amount on account of irrigation infrastructure as non-product specific support to the WTO. However, expenditures on water resources by the Department provides additional indirect support for U.S. agriculture and U.S. dairy producers.

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[119] In our calculations, we include only the cost of the food aid programs to government. We have not calculated or estimated any price support effect.

D. Conclusions

U.S. Federal Government program level support and subsidy programs on agriculture have been increasing since 1998. Attempts to reduce Farm Bill spending in FY 2009 and FY 2010 were defeated by Congress – and a similar fate is expected with the FY 2011 budget. Resistance on both sides of Congress suggests that even these modest proposals will be frustrated.

Although the WTO Members (at U.S. insistence during the Uruguay Round) segregated subsidies into different categories (coloured boxes) on the basis of their presumed impact on trade, the money provided through these programs is fungible and clearly encourages and permits increased production and distorts trade. The fungibility view is gaining increased support among less affluent WTO members.

The United States takes the position that it provides domestic support well within its WTO commitments. The WTO dispute litigation in *USA – Cotton*[120] has refuted this assumption. The principles established in *Canada – Dairy*[121] and *E.C. – Sugar*[122] further undermine the U.S. position. Brazil may challenge U.S. soybean exports and other supported commodities are at risk. In our view, these U.S. claims are further eroded, because the full value of massive irrigation support provided through state and local government is not reported to the WTO by the United States. Because U.S. support has a significant effect by encouraging increased production of milk and other agricultural products, there is no question that U.S. domestic support has production and trade distorting effects.

U.S. milk production benefits from very generous subsidies. Any reductions in over-TRQ tariffs could be easily absorbed by producers who can rely on their continued subsidies to offset possible price pressures. In effect, a reduction in tariffs might simply reduce the competitive advantage currently enjoyed by U.S. producers without eliminating or significantly eroding their

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[120] *United States – Subsidies on Upland Cotton*, Reports of the Appellate Body, WT/DS26T/AB/R, WT/DS266/AB/R and WT/DS267/AB/R, 21 March 2005

[121] *Canada – Measures Affecting the Importation of Milk and Exportation of Dairy Products*, Report of the Appellate Body, WT/DS103/AB/R, WT/DS113/AB/R – 13 October 1999

[122] *European Communities – Export Subsidies on Sugar*, Reports of the Appellate Body, WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R, 28 April 2005

advantage. The fact that the United States Congress intends to continue to rely on generous domestic support simply indicates that the government-supported and seized competitive advantage currently enjoyed by U.S. dairy producers will continue for the foreseeable future and will likely continue, whatever the outcome of the Doha Development Round negotiations may be.

We consider that it is unlikely that the DDA negotiations will have any real effect on the U.S. ability to provide domestic support and continued subsidies and incentives to over-production. Indeed, there was considerable discussion at and around the failed Ministerial meeting in Cancun which suggested U.S. domestic support could actually be increased under the reduction approaches under consideration. Meaningfully reduced levels of domestic support will not happen unless the full scope and value of U.S. trade and/or production distorting domestic support is considered and effectively disciplined. This would require that benefits provided under all Federal and State programs, including irrigation subsidies be subject to negotiation, discipline and reduction.

In some cases, the support provided through individual USDA programs might not be included in the U.S. AMS nor be subject to domestic support reduction commitments. On an individual basis, some programs apparently have no admitted or de facto trade or production distorting effects or may be provided, with impunity, for one of the specific purposes set out in Annex 2(2) to the Agreement on Agriculture.

U.S. financial support results in annual overproduction of a number of commodities, including corn and soybeans. Surplus production of these commodities is dumped onto world markets through sales made at below average cost of production. Transportation issues which limit movement of liquid milk make it difficult to simply dump fluid milk onto the world market. However, the United States disposes of further processed surplus milk production through a number of programs which are described in this report. Whether the milk is used in domestic food aid programs or given to livestock producers in the form of feed or exported with DEIP benefits, surplus production is taken up. And other programs can be used to assist in the export of processed dairy products.

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The WTO panel in *U.S. – Upland Cotton* has clearly determined that certain U.S. domestic subsidies act as import replacement subsidies.[123] Such subsidies are prohibited under Article 3(1)b of the Agreement on Subsidies and Countervailing Measures. This finding of the Panel was confirmed by the Appellate Body.[124]

The impact of U.S. domestic support, and its characterization under the Agreement on Agriculture, must be taken into consideration as U.S. trading partners proceed through all aspects of the Agriculture negotiations related to the Doha Development Agenda negotiations. If this U.S. view of the WTO consistency of its domestic support was correct, very deep cuts in U.S. domestic support bindings would be required before there would be any perceptible impact on U.S. production levels.

We conclude that the United States is intent on continuing to use support, and to increase the amount of support provided to its agricultural sector, including direct and indirect support to U.S. dairy producers. We recognize that there are budgetary initiatives to limit support, but these will be resisted by Congress. It is reasonable to conclude that even though reduced payments to dairy have been purported by USDA, we will see further increases in U.S. dairy production going forward.

Given the level of domestic support provided by the U.S. Federal Government, and potential increases in that support level, it is unlikely that any negotiated reductions in tariff production or other improvements in market access will have any real affect on access to the U.S. market. However, reductions by other countries would increase their exposure to highly subsidized U.S. exports. The problems of Mexican corn growers, or African cotton producers, are not the only results of U.S. subsidies. These have been the most publicized.

To fully appreciate the implications and effects of U.S. domestic support on dairy producers, it is important to consider the increase in subsidies and support in terms of their impact on

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123 World Trade Organization (WTO), *United States – Subsidies on Upland Cotton*; Report of the Panel (WT/DS267/R), September 8, 2004, para 7.1088

124 WT/DS 267/AB, R, March 3, 2005, para 763(d)(i)

production. In 1998, GCS identified approximately $8.7 billion in direct and indirect subsidies for U.S. dairy producers. Based on their total production, this resulted in support in the amount of $5.627/cwt. For 2003, GCS identified approximately $10.6 billion in direct and indirect subsidies for U.S. dairy producers, which resulted in support in the amount of $6.211/cwt. , an increase of $0.584/cwt or 10.38%. Based on these figures, there was an increase of approximately $1.9 billion in total direct and indirect support to U.S. dairy producers, or a 21.84% increase between 1998 and 2003.

By 2009 the support has increased to US$12.00 – and this is on a different basis including state support and irrigation and Biomass subsidies. But it is an increase of nearly 100% between farm bills.

E. Summary of Program Benefits

The summary table is intended only to provide a guide to programs examined. It is not totalled because of differences in reporting by agencies of the U.S. government. It is not a check on the total program allocation to dairy products.

	List of Programs	**Allocation to Dairy Industry (USD)**
II.	**Domestic Support**	**7,273,492,375**
A.	Farm Loan and Grant Programs	1,389,000,000
A.1	Farm Operating and Ownership Loans	457,318,000
A.2	Emergency Disaster Loans	3,210,000
A.3	State Mediation Grants	428,000
B.	Commodity Programs	2,283,084,112
C.	Direct Payments / D. Counter-Cyclical Payments	1,055,555,000
E.	Average Crop Revenue Election Payments (ACRE)	nil
F.	Non-Recourse Marketing Assistance Loans and Loan Deficiency Payments	887,127,263

G.	Price Support Marketing Assistance Loans and Related Stabilization Programs	243,746,000
H.	Disaster Payments	163,175,000
I.	Milk Income Loss Contract Payments (MILC)	757,000,000
J.	Noninsured Assistance Payments	6,634,000
K.	Farm Storage and Sugar Storage Facility Loans	26,215,000
L.	Dairy Indemnity Payment Program	1,000,000
M.	Dairy Price Support Program	nil
III.	**Export Subsidies**	**3,375,013,500**
A.	Foreign Agricultural Service	2,743,908,000
B.	Export Credit Guarantee Programs	573,199,000
C.	Facilities Financing Guarantees	nil
D.	Market Access Program	24,931,000
E.	Foreign Market Development (Cooperator) Program	3,691,500
F.	Emerging Market Program	1,007,000
G.	Quality Samples Program	107,000
H.	Dairy Export Incentive Program (DEIP)	116,600,000
I.	Trade Adjustment Assistance for Farmers	9,063,000
IV.	**International Food Assistance**	**317,362,000**
A.	Public Law 480 (P.L. 480)	248,347,000
B.	Bill Emerson Humanitarian Trust	749,000
C.	Food for Progress	25,466,000
D.	McGovern-Dole International Food for Education and Child Nutrition Program	19,688,000
E.	Section 416(b) Donations	23,112,000
V.	**Agricultural Marketing Services**	**194,598,000**
A.	Marketing Services	32,100,000

B.	Payments to States	214,000
C.	Section 32 Funds (Funds for Strengthening Markets, Income and Supply)	108,284,000
D.	Perishable Agricultural Commodities Act	Nil
E.	Commodity Grading Services	Nil
F.	Milk Market Orders Assessment Fund	54,000,000
VI.	**Conservation Programs**	**543,667,000**
A.	Conservation Reserve Program (CRP)	205,012,000
B.	Emergency Conservation Program	7,597,000
C.	Environmental Quality Incentives Program	114,169,000
D.	Conservation Operations	91,271,000
E.	Conservation Reserve Program Technical Assistance Account	8,346,000
F.	Agricultural Management Assistance	1,605,000
G.	Conservation Security Program	29,532,000
H.	Farm and Ranch Lands Protection Program	12,947,000
I.	Grassland Reserve Program (GRP)	5,136,000
J.	Resource Conservation and Development	5,457,000
K.	Wildlife Habitat Incentives Program	9,095,000
L.	Watershed and Flood Prevention Operations	2,568,000
M.	Watershed Rehabilitation Program	4,280,000
N..	Wetlands Reserve Program	46,652,000
VII.	**Crop Insurance**	**1,394,210,000**
A.	Livestock Gross Margin Insurance for Cattle	
B.	Livestock Gross Margin for Dairy Cattle Insurance Policy	
C.	Livestock Gross Margin for Swine Insurance Policy	
D.	Livestock Risk Protection Feeder Cattle Insurance	
E.	Livestock Risk Protection Lamb Insurance Policy	

F.	Supplemental Revenue Assistance Payments Program	
VIII.	**Rural Development**	**5,103,472,000**
A.	Rural Business – Cooperative Service	
A.1	Business and Industry (B&I) Loan Guarantees	364,442,000
A.2	Rural Housing Service	2,414,776,000
A.3	Rural Utilities Service	2,324,254,000
IX.	**Animal and Plant Health Inspection Services**	**84,600,000**
A.	Agricultural Quarantine Inspection Fees	15,729,000
B.	Plant and Animal Health Monitoring	26,392,000
C.	Pest and Disease Management Programs	36,915,000
D.	Animal Care	2,354,000
E.	Scientific and Technical Services	3,210,000
X.	**Food Safety and Inspection**	**102,613,000**
A.	Federal Food Safety and Inspection	93,304,000
B.	State Food Safety and Inspection	6,955,000
C.	International Food Safety and Inspection	1,926,000
D.	Codex Alimentarius Commission	428,000
XI.	**Food and Nutrition Services**	**8,785,128,000**
A.	Supplemental Nutrition Assistance Program (SNAP)	6,330,655,000
B.	Child Nutrition Programs	1,623,618,000
C.	Special Supplemental Food Program for Women, Infants, and Children (WIC)	787,520,000
D.	Commodity Assistance Program	43,335,000

XII.	**Grain Inspection, Packers and Stockyard Administration (GIPSA)**	**4,280,000**
XIII.	**Forest Service**	**83,460,000**
A.	Forest and Rangeland Research	38,948,000
B.	State and Private Forestry	38,092,000
C.	Land Acquisition	6,420,000
XIV.	**Research, Education and Economics**	**318,004,000**
A.	Agricultural Research Service	148,730,000
B.	National Institute of Food and Agriculture	144,450,000
C.	Economic Research Service	8,560,000
D.	National Agricultural Statistics Service	16,264,000
XV.	**Irrigation Infrastructure**	**192,386,000**
XVI.	**Biomass Energy Tax Incentives**	**510,390,000**

* Expenditures on account of counter-cyclical payments are included in the expenditures for direct payments.

II. Domestic Support

The programs used to deliver domestic support and subsidies which are reviewed in this section are primarily delivered by the Farm Service Agency (FSA) or by the Commodity Credit Corporation (CCC).

The Farm Services Agency was established in 1994 and administers a broad range of activities such as farm income support programs, conservation programs, and crop insurance programs.[125]

The Commodity Credit Corporation provides funding for commodity programs administered by the Farm Service Agency and conservation programs administered by the Farm Service Agency and the Natural Resources Conservation Service (NRCS). The Commodity Credit Corporation also provides funding for export programs administered by the Foreign Agricultural Service (FAS).[126]

Including funding for commodity programs and conservation programs, funded through the Commodity Credit Corporation, the FY 2011Budget Summary for the Department of Agriculture reports the following program level for the Farm Service Agency.[127]

2008	(Enacted)	$26,699,000,000
2009	(Estimate)	$28,053,000,000
2010	(Budget)	$27,843,000,000

The subsidies and support provided through the Farm Service Agency programs include programs aimed exclusively at supporting dairy producers as well as programs that do not provide support exclusively for the benefit of U.S. dairy producers. In 2008, expenditures under programs intended exclusively to support dairy production amounted to $928,600,000. The full value of the expenditures under these programs is allocated to support dairy production.

125 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 101
126 Ibid., pg 102
127 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 136

For the remaining expenditures, which do not exclusively support dairy producers, the total value of the subsidies and support provided for dairy producers is determined on the basis of dairy's share of the value of U.S. agricultural production, in dollar terms. In 2009, dairy represented 10.7% of total U.S. agricultural production. Therefore, of the $26,699,000,000 program funding account of programs administered by the Farm Service Agency in 2009, we estimate that $2,856,793,000 directly or indirectly supported U.S. dairy production.

Therefore, the total support provided to U.S. dairy producers is the sum of the support provided exclusively to dairy production $928,600,000 and dairy's share of the other support program $27,451,568,875 which amounted to $28,380,168,875.

PART I

A. Farm Loan and Grant Programs (Budget Code 12-0600-0-1-351.09.01)[128]

The Farm Service Agency operates a number of grant and loan programs that benefit U.S. farmers which include:

A.1 Farm Operating and Ownership Loans
A.2 Emergency Loans
A.3 State Mediation Grants

These programs, and their budgeted program levels, are set out below.

2009 (Actual)	$1,137,000,000
2010 (Estimate)	$1,389,000,000
2011 (Estimate)	$1,365,000,000

It is important to note that in addition to the expenditures reported above, a separate administrative expense on account of these programs is reported as follows:

These programs cannot be measured accurately by the program level because:

- repayments can be used to create additional borrowings;
- loans outstanding are many times more than the program level for a particular year

128 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 101

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A.1 Farm Operating and Ownership Loans (Budget Code (12-1140-0-1-351-115002 and 12-1140-0-1-351-115001)[129]

(a) Program Description

The Farm Service Agency provides direct and guaranteed farm ownership and farm operating loans to family-sized farmers and ranchers who cannot obtain commercial credit from a bank, Farm Credit System Institution or other lender. These loans can be used to purchase land, livestock, equipment, feed, seed and supplies. These loans can also be used to construct buildings or to make farm improvements. For FY 2010, this program is expected to serve an estimated 22,500 farmers, about 15,000 of whom will receive direct loans and 7,500 of whom will receive guarantees. For farm ownership loans, the 2011 budget provides $475 million in direct loans and $1.5 billion for guaranteed loans. The 2011 levels will provide about 7,100 people with the opportunity to either acquire their own farm or keep an existing one. About 2,800 borrowers will receive direct loans and 4,300 will receive guaranteed loans.[130]

These loans are generally available to beginning farmers or to established farmers who have suffered financial setbacks from natural disasters or whose resources are too limited to maintain profitable farming operations.

Guaranteed loans provide conventional lenders with up to a 95% guarantee of the principal loan amount so that the commercial lender can make loans to farmers and ranchers who would not normally qualify. The Farm Services Agency can guarantee operating and ownership loans up to $1,112,000. This amount is adjusted annually for inflation.

Direct loans are provided by the Farm Service Agency to qualifying farmers and ranchers. The Farm Service Agency also provides direct loan customers counseling and loan supervision service so that they have a better chance of success in their farming operation.[131] The maximum amount for a direct loan is $300,000.[132]

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129 Ibid., pg 105
130 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 28
131 *Farm Loans Programs*, Farm Service Agency Online
132 *Farm Loans Direct Loans,* Farm Service Agency Online

Repayment terms for direct loans vary according to the type of loan made, the collateral securing the loan and the producer's ability to repay. Operating loans are normally to be repaid within 7 years. Ownership loans may not exceed 40 years.

Interest rates on these loans may not exceed the rate charged the lender's average farm customer. In addition, under the Interest Assistance Program, FSA will subsidize 4% of the interest rate on loans to qualifying borrowers. Repayment terms for guaranteed loans are negotiated between the lender and the borrower. [133]

Borrowers can choose to participate in a joint financing plan where the Farm Services Agency provides up to 50% of the amount financed and another lender provides the balance. The Farm Services Agency may not change less than 4% interest.[134]

The loans must be secured. The collateral for operating loans can include chattel and real estate. Collateral for ownership loans consists of real estate only. FSA staff determines whether the proposed collateral is adequate.

For most guaranteed loans, the Farm Service Agency can charge a 1% guarantee fee on the guaranteed portion of the loan. This fee can be waived for: (i) interest assistance loans; (ii) loans where more than 50% of the loan funds are used to pay off direct Farm Services Agency debt; and (iii) loans in conjunction with a Downpayment Farm Ownership Loan program for beginning farmers or a qualifying state "beginning farmer" program.[135]

The Farm Services Agency operates a special Downpayment Farm Ownership Loan program for beginning farmers and ranchers. The program is also used to help retiring farmers or ranchers transfer their land. Under this program, an applicant makes a cash downpayment of at least 10% of the purchase price for the farm or ranch, the Farm Services Agency can finance up to 40% of the purchased price or appraised value (whichever is less), the remainder of the purchased price

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[133] *Farm Loans Guaranteed Loans*, Farm Service Agency Online, pg 3 of 6
[134] Ibid., pg 4 of 6
[135] Ibid.

must be financed by a commercial lender or a private party (eligible commercial lenders can benefit from a Farm Services Agency guaranteed loan). The purchase price or appraised value (whichever is lower) may not exceed $225,000.[136]

(b) WTO Consistency

The loans and loan guarantees provided under this program would constitute a subsidy for purposes of the WTO Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures on the basis that the program provides a financial contribution by government that confers a benefit on the recipient farmer or rancher that, based on their creditworthiness, are not available to them on the market.

The loans provided under this program allow farmers and ranchers to continue production or to expand it; thus, the loans would have distorting effects on production and/or trade. Consequently, the domestic support provided through these loan and loan guarantee programs must be included in the U.S. AMS and would not be exempt from domestic support reduction commitments.

The total value of the loans and guarantees provided under this program would not be limited to the interest rate benefit provided, but would include the total value of the conventional loans and guaranteed loans provided under the program. The program provides operating and ownership loans to farmers and ranchers who do not qualify for normal market based commercial credit. In these circumstances, the benefit provided through the program is not limited to the below market interest rates or preferential terms available from the Farm Service Agency because obtaining any form of credit from a commercial lender is not an option. Rather, the benefit to farmers and ranchers under this program must be the total value of the loan or loan guarantee provided by the Farm Service Agency.

Any repayment made by loan recipients will be revenue in the hands of the U.S. Department of Agriculture that can be used to offset the ongoing cost of this and other programs. Although any

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136 Ibid., pg 4 of 6

repayment made can be properly counted as revenue and used as an offset in determining the budgetary authority actually needed to meet ongoing program levels, it would not be appropriate to reduce the support calculation by the amount of repayments received during the fiscal year. This is because the impact of U.S. domestic support on agricultural production can only be determined by considering the actual program level expenditures.

Notwithstanding such repayments, U.S. farmers and ranchers enjoy the benefit of program level expenditures and are able to rely on that money to fund production and to develop their businesses. In these circumstances, it is reasonable and appropriate to consider the entire expenditure by the Farm Service Agency on account of these loan and loan guarantee programs as a measure of the support provided to U.S. agricultural production. It is neither reasonable nor appropriate to discount the impact of these programs by deducting from program expenditures any repayments made during the course of a fiscal year.

(c) Program Level

The FY 2011 Budget reports outlays for farm ownership and farm operating loans separately and distinguishes between direct and guaranteed loans. These are reported in the *Subsidy Budget Authority and Outlays by Program* Summary Sheet.

Farm Ownership direct loan outlays are reported as follows:[137]

2009	(Actual)	$560,000,000
2010	(Estimate)	$650,000,000
2011	(Estimate)	$475,000,000

137 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 105

Farm Operating direct loan outlays are reported as follows:[138]

2009	(Estimate)	$1,056,000,000
2010	(Estimate)	$1,002,000,000
2011	(Estimate)	$900,000,000

When reporting the Guaranteed loans, the Budget reports unsubsidized farm ownership loans, unsubsidized farm operating loans and subsidized farm operating loans.

Guaranteed unsubsidized farm ownership loan budget authority is reported as follows:[139]

2009	(Actual)	$1,273,000,000
2010	(Estimate)	$1,500,000,000
2011	(Estimate)	$1,500,000,000

Guaranteed unsubsidized farm operating loan budget authority is reported as follows:[140]

2009	(Actual)	$1,235,000,000
2010	(Estimate)	$1,520,000,000
2011	(Estimate)	$1,500,000,000

Guaranteed subsidized farm operating loan budget authority is reported as follows:[141]

2009	(Actual)	$150,000,000
2010	(Estimate)	$170,000,000
2011	(Estimate)	$144,000,000

138 Ibid.
139 Ibid.
140 Ibid.
141 Ibid.

Aggregate farm ownership and farm operating loans budget authority can be developed from the foregoing data.

- Aggregate Farm Ownership Loans (direct and guaranteed)

	FY 2011 Budget
2009 (Actual)	1,833,000,000
2010 (Estimate)	2,150,000,000
2011 (Estimate)	1,975,000,000

- Aggregate Farm Operating Loans (direct and guaranteed)

	FY 2011 Budget
2009 (Actual)	$2,441,000,000
2010 (Estimate)	$2,672,000,000
2011 (Estimate)	$2,544,000,000

- Total Farm Operating and Ownership Loans

	FY 2011 Budget
2009 (Actual)	$4,274,000,000
2010 (Estimate)	$4,822,000,000
2011 (Estimate)	$4,519,000,000

(d) Allocation to Dairy

These programs do not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Based on our methodology, previously discussed, the value of the subsidies and support that benefits dairy production under these programs is allocated on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

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The budget authority for total farm ownership and operating loans provided under this program in 2009 was $4,274,000,000. Therefore, the amount allocated to dairy production under these programs is $457,318,000.

A.2 Emergency Disaster Loans (Budget Code 12-1140-0-1-351-115003) [142]

(a) Program Description

The Farm Services Agency provides emergency loans, as direct loans, to assist farmers who suffered losses in areas designated by the President, the Secretary of Agriculture or the Administrator of the Farm Services Agency. In recent years, disaster relief designations in the U.S. have been very extensive.

For production loss loans, applicants must demonstrate a 30% loss on a single farm or ranch. These applicants may receive loans up to a maximum of 80% of total production losses.

Emergency loans are provided to restore or replace essential property or to pay part or all of the production costs associated with the disaster year. The emergency loan limit is up to 80% of the actual loss, up to a maximum of $500,000.[143]

(b) WTO Consistency

The emergency loans are also subsidies, but based on current WTO interpretations, would not have to be included in reduction commitments. Pursuant to Agreement on Agriculture, Annex 2(8), these loans could be considered payments for relief from natural disasters.

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142 Ibid.
143 NASDA Disaster Assistance, www.nasda.org/cms/7196/7376/8548.aspx, February 8, 2010

(c) Program Level

The FY 2011 Budget reports funding authority for emergency disaster loans as follows:[144]

2009	(Actual)	$30,000,000
2010	(Estimate)	$56,000,000
2011	(Estimate)	$56,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under this program in 2009 amounted to $30,000,000. Therefore, the amount allocated to dairy production under this program is $3,210,000.

[144] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 105

A.3 State Mediation Grants (Budget Code 12-0170-0-1-351)[145]

(a) Program Description

This program is used to benefit family farmers, including low-income and socially disadvantaged farmers, to resolve credit and other issues and remain on the farm.

(b) WTO Consistency

The support provided by this program would provide important support to farmers. Since the objective of the program is to assist farmers in ready accommodations with their creditors keep farmers on the farm and in production, the subsidy arguably has trade or production distorting effects. Consequently, the support provided through this program should be included in the U.S. AMS and subject to domestic support reduction commitments.

(c) Program Level

The FY 2011 Budget reports total authority for the State Mediation Grants program as follows:[146]

2009 (Actual)	$4,000,000
2010 (Estimate)	$4,000,000
2011 (Estimate)	$4,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these

145 Ibid., pg 102
146 Ibid.

programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under this program in 2009 amounted to $4,000,000. Therefore, the amount allocated to dairy production under this program is $428,000.

B. Commodity Programs (Budget Code 12-4336-0-3-999.10.00)[147]

The Farm Services Agency provides support to commodities through the Commodity Credit Corporation (CCC). These programs include non-recourse marketing assistance loans, direct payments, countercyclical payments, production flexibility contracts, and constitute the lion's share of domestic support included in the U.S. Aggregate Measure of Support (AMS) and subject to U.S. Reduction Commitments under the WTO.

Changes over the last decade in commodity assistance, disaster relief, and conservation programs have dramatically changed CCC outlays. CCC net outlays have declined from a record high of $32.3 billion in 2000 to $11.4 billion in 2008, reflecting higher prices for most commodities resulting from increased demand for bioenergy production and strong export demand. Outlays in 2009 which included the impact of 2008 Farm Bill provisions were $11.4 billion. They reflected reduced disaster payments offset by greater outlays for dairy support programs which are affected by lower market prices and initiatives to enhance dairy price supports. Estimated outlays for 2010 rose to $11.9 billion partly as a result of the newly implemented Biomass Crop Assistance Program (BCAP). The FY 2011 Budget reports the following total budgetary obligations for the CCC, including expenditures on account of export subsidy and food aid programs administered by CCC:[148]

2009 (Actual)	$24,232,000,000
2010 (Estimate)	$24,423,000,000
2011 (Estimate)	$22,678,000,000

The programs supported by the Commodity Credit Corporation do not provide support exclusively to dairy producers. There is a specific budget line for the Dairy Program at $1,000,000 for 2008.[149]

147 Ibid., pg 109
148 Ibid.
149 Ibid., pg 112

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The Budget documents offer the following description of CCC dairy activities:

> "*Dairy program*. Dairy qualifies for milk price supports, recourse loans, and dairy market loss payments. The 2002 Act extend the Dairy Price Support Program from January 1, 2002 to May 31, 2002. The 2002 Farm Bill extended the Dairy Price Support Program from June 1, 2002 through December 31, 2007 at a rate of $9.90 per hundredweight for milk containing 3.7% butterfat. The support program is carried out through the purchase of butter, nonfat dry milk, and cheese at prices that enable processors to pay dairy farmers, on average, the support price for milk. As under previous law, the Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that minimizes CCC expenditures or other objectives, as the Secretary considers appropriate. Cash CCC inventory sales (with some exceptions) shall be at any price that the Secretary determines will maximize CCC returns. The 2002 Farm Bill repealed all legislative authority for the Dairy Recourse Loan Program but established a new Milk Income Loss Contract Program under which the Secretary may contract with eligible producers up to September 30, 2005, to make monthly payments when milk prices fall below specified levels."[150]

In addition, dairy farmers clearly benefit from various aspects of the benefits to feedgrains and oilseeds and livestock. For purposes of this study, unless specific program levels or expenditures can be identified, the amount of support provided to dairy producers will be determined on the basis of dairy's share of total U.S. agricultural production. In 2008, dairy production represented 10.7% of the total value of all U.S. agricultural production. Therefore, of the $24,429,000,000, $2,283,084,112.15 can be attributed to dairy production.

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150 Ibid.

C. Direct Producer Payments[151] (Budget Code 12-4336-0-3-999)

(a) Program Description

Direct Payments are payments to producers for which payment yields and base acres are established. The 2002 Farm Bill established direct payments for May 2002 through 2007. The payments were extended through the 2012 crop year by the 2008 Farm Bill. The direct payment rates established in the 2008 Farm Bill are the same as those in the 2002 Farm Bill; however, payment acres decrease from 85% to 83.3% of base acres for 2009–2011 crops, and no advance payments are available for the 2012 and subsequent crops.

For each of the 2008 through 2012 crop years, the Secretary is required to make direct payments to producers on farms for which payment yields and base acres are established. The rates used to make direct payments with respect to covered commodities for a crop year are as follows,

Wheat	$0.52/bu
Corn	$0.28/bu
Grain Sorghum	$0.35/bu
Barley	$0.24/bu
Oats	$0.024/bu
Upland Cotton	$0.0667/lb
Rice	$2.35/cwt
Soybeans	$0.44/bu
Other Oilseeds	$0.0080/lb[152]
Peanuts	$36/ton[153]

Direct Payments are payments to producers for which payment yields and base acres are established. The commodity payment amount is calculated as follows: Payment Amount = specified rate x payment acres x payment yield. At the option of the producer, the producer can choose to receive advance payments (up to 22%) during the producer's selected month. The month selected may be any month during the period beginning on December 1 of the calendar

151 Ibid., pg 110
152 Food, Conservation and Energy Act of 2008
153 Food, Conservation and Energy Act of 2008, Section 1303(a) and (b) – payment rate for the 2008 to 2012 crop years.

year before the calendar year in which the crop of the covered commodity is harvested through the month within which the direct payment would otherwise be made.[154]

The base acreage used to determine entitlement for direct and counter-cyclical payments made to producers is established on the basis of a calculation method chosen by the producer. The methods available to the producers are based on the four-year average production of the covered commodities for the period 2004 through 2007.

1) the four year average of the acreage planted on the farm to covered commodities and any acreage that producers were prevented from planting during the 1998 through 2001 crop years because of drought, flood, other natural disasters or other conditions beyond the Producer's control.

2) the sum of the contract acreage used by the Secretary to calculate FY 2002 payments and the four year average of eligible oil seed acreage on the farm for the 1998 through 2001 crop years.

In establishing the four-year average, the Secretary may not exclude any crop year in which a covered commodity was not planted.

In some cases, application of these methods could result in payments to producers based on an acreage that exceeds the actual cropland acreage of the farm. The 2002 Farm Act prevented payments made on the basis of excess acreage by capping the base acreage available for support payments to the actual cropland acreage of the farm.[155]

The Secretary also establishes, for each farm and for each covered commodity, historical yields used to determine the direct and counter-cyclical payments.[156] For 2008 through 2012, the payment yield is the farm program payment yield established for the 1995 crop of the covered commodity, as adjusted to account for any additional yield payments. For farms without a

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[154] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 111
[155] Food, Conservation and Energy Act of 2008, Section 1101
[156] Food, Conservation and Energy Act of 2008, Section 1102(a)

payment yield, the Secretary is required to establish an appropriate payment yield taking into consideration the payment yield for other farms in the same region.[157]

For soybeans and other oilseeds, which were included in the direct payment system in the 2002 Farm Act, the Secretary is required to determine a yield rate based on 2004 through 2007 plantings. The Secretary is also directed to exclude any year during that period in which the particular farmer planted no oilseeds.[158]

Direct payments are described as being based on historical acreages and on historical yields. USDA takes the position that the direct payments are fixed for each crop and are not affected by current production or by current market rates. [159] Consequently, the U.S. asserts that these payments are based on production volumes and factors from the period prior to the base year and that the subsidies neither support price nor are trade distorting. On this basis, the U.S. has not include the full value of its direct payments in its AMS.

However, the 2002 Farm Bill allows producers to update their base acreage;[160] an important component in determining the amount of total payment they will receive. The decision to allow updating in this manner has two consequences,

- by allowing base acreages to be updated, the payments made under this program are tied to production volumes and production factors in a period following the base year;
- by allowing base acreages to be updated, the payments appear to have a trade and/or production-distorting effect;

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157 Food, Conservation and Energy Act of 2008, Section 1102 (b) and (c)

158 2008 Farm Bill Side-by-Side, pg 111

159 *The 2002 Farm Act: Provisions and Implications for Commodity Markets*, USDA Agriculture Information Bulletin Number 778, November 2002, pg 4

160 Brazil argued this alone rendered the program subject to AMS reduction which meant direct payments were not green. The Appellate Body declined to rule on this because it had already found that direct payments did not conform to Annex 2(2)(b) for other reasons.

(b) WTO Consistency

Direct payments provided by the Commodity Credit Corporation are subsidies for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. The only issue is whether these programs are exempt from reduction commitments.

In the *USA – Upland Cotton*[161] WTO Dispute Settlement proceedings, the Appellate Body upheld the Panel's finding that direct payments are not green box payment measures that fully conform to paragraph 6(b) of Annex 2 of the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget reports Direct Producer Payments as follows:[162]

2009	(Actual)	$9,865,000,000
2010	(Estimate)	$10,325,000,000
2011	(Estimate)	$9,229,000,000

Please note that these figures include expenditures on account of the counter-cyclical payments, which is described in the next section. We have addressed both programs in a single allocation; we have avoided double counting.

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers, but clearly benefits feedgrowers and oilseeds consumed in dairy farming. We cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the

161 WT/DS267/AB/4, March 3, 2005
162 Department of Agriculture, *The Budget for Fiscal Year 2011*, Data on Support and Related Programs pg 114

basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under this program in 2009 amounted to $9,865,000,000. Therefore, the amount allocated to dairy production under this program is $1,055,555,000.

D. Counter-Cyclical Payments[163] (Budget Code 12-4336-0-3-999)

(a) Program Description

Counter-cyclical payments were introduced in the 2002 Farm Act to replace most of the *ad hoc* emergency payments (market assistance loss payments) provided to producers during the period from 1998 to 2001.

For each of the 2002 through 2012 crop years, the Secretary is directed to make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.[164]

The "effective price" for a commodity is equal to the sum of the following,

- the higher of the national average market price received by producers during the 12 month marketing year for the covered commodity

  or
- the national average loan rate for the marketing assistance loan for the covered commodity,

  plus
- the payment rate in effect for the covered commodity for the purpose of making direct payments with respect to the covered commodity.[165]

The effective price specifically includes the payment rate established for the covered commodity and used to make direct payments. As this domestic subsidy is included as a component of the effective price, the effective price is a subsidized price.

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163 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 109
164 Food, Conservation and Energy Act of 2008
165 Ibid.

The "target price" is set for each covered product as follows,

	2008 – 2009 Crop Years	2010 – 2012 Crop Years
Wheat	$3.92/bu	$4.17/bu
Corn	$2.63/bu	$2.63/bu
Grain Sorghum	$2.57/bu	$2.63/bu
Barley	$2.24/bu	$2.63/bu
Oats	$1.44/bu	$1.79/bu
Upland Cotton	$0.7125/lb	$0.7125/lb
Rice	$10.50/cwt	$10.50/cwt
Soybeans	$5.80/bu	$6.00/bu
Other Oilseeds	$10.10/lb	$12.68/lb[166]

Peanuts were included in the counter-cyclical payment program as part of the shift away from the price support and quota system previously in place that benefited U.S. peanut producers. The effective price for peanuts is calculated on essentially the same basis as the method used to calculate the effective price for covered commodities.[167] The Target Price for crop years 2008 through 20012 is equal to $495 per ton.[168] However, the methodology adopted for determining average yield rates for peanut farmers has resulted in these payments being on the basis of production occurring after the base period.

If a countercyclical payment is made, the rate will be equal to the difference between the target price and the effective price of the covered commodity, (i.e., if the target price is set at $1/unit and the effective price is determined to be $0.60/unit, a counter-cyclical payment will be made at a rate of $0.40/unit so that the producers will receive a total amount on the sale of these goods equal to the $1/unit target price). The amount paid will be based on the number of payment acres for the covered commodity on the farm.[169] For peanut producers in 2002, counter-cyclical payments will only be made to historic producers. For 2008 through 2012, payments will be made to producers on farms to which a payment yield and base acres are assigned.[170]

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166 Ibid.
167 Ibid.
168 Ibid., Section 1304(2)(c)
169 Ibid., Section 1104(d) and (e), for covered commodities, Section 1304(d) and (f) for peanuts
170 Ibid., Section 1304(a)

(b) WTO Consistency

Counter-cyclical payments are subsidies for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. The only issue is whether the counter-cyclical payments provided are exempt from U.S. reduction commitments.

Although USDA considers that these payments are not tied to current production,[171] the counter-cyclical payments made by the U.S. cannot be excluded from its AMS because they are production, trade and price-distorting. USDA has specifically noted that counter-cyclical payments are tied to market price,

> "… counter-cyclical payments (CCP) provide price-dependent benefits for covered commodities whenever the effective price for the commodity is less than its target price."[172]

The price-dependent nature of counter-cyclical payments is clearly evident from the operation of this program. Whether or not counter-cyclical payments are in fact provided, and the level of those payments, depends on the current market rates. Because the payment is only made if the actual market price falls below the target price, the payment is clearly and unequivocally directly related to price. The result is that the payments are made to support the price to the producer at the level of the target price.

Furthermore, producers have the right to update the yields used to establish their counter-cyclical payments.[173] Although these readjustments will not result in a complete change to yield rates to reflect current yields, they do allow producers to base the payments that they receive on yield rates that are more current (and likely more favourable) than the base year yield rates.

In these circumstances, counter-cyclical payments are both trade-distorting and provide price support. These payments are trade distorting because the yield rates used to calculate the

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171 *The 2002 Farm Act: Provisions and Implications for Commodity Markets*, USDA Agriculture Information Bulletin Number 778, November 2002, pg 4

172 Ibid.

173 Food, Conservation and Energy Act of 2008, Section 1102

payments may be updated so that they are based on production following the base period. These payments are price supporting because they allow government to intervene in the market to ensure that the price to producers does not fall below the target price level. As a result, these payments cannot be excluded from the U.S. AMS on the basis of the exceptions in Article 6 and Annex 2 to the *Agreement on Agriculture*.

(c) Program Level

Expenditures on account of counter-cyclical payments are included in the expenditures for direct payments, which are reported in the FY 2010 Budget as follows:[174]

2009	(Actual)	$9,865,000,000
2010	(Estimate)	$10,325,000,000
2011	(Estimate)	$9,229,000,000

However, we have already captured these amounts in the previous section on direct producer payments and have not double-counted in our estimates.

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under direct payment and countercyclical payments in 2009 amounted to $9,865,000,000. Therefore, the amount allocated to dairy production under this program is

[174] Department of Agriculture, *The Budget for Fiscal Year 2011*, Data on Support and Related Programs, pg 114

$1,055,555,000. As noted, we have accounted for these benefits under the direct payments program; we have not double counted.

E. Average Crop Revenue Election Payments (ACRE)

(a) Program Description

Average Crop Revenue Election (ACRE) Program was introduced by the 2008 Farm Bill for the 2009–2012 crop years. Producers who elect to enrol a farm in ACRE are eligible for ACRE payments in lieu of counter-cyclical payments on the farm and in exchange for a 20% reduction in direct payments on the farm and a 30% reduction in the marketing assistance loan rates for all commodities produced on the farm except that the loan rate for seed cotton loans will not be so reduced.

The election to enrol a farm in ACRE may be made for any of the crop years 2009–2012, but once the election is made, it is irrevocable through the 2012 crop.[175]

(b) WTO Consistency

ACRE falls under the same analysis as for direct and countercyclical payments.

(c) Program Level

ACRE is designed to reduce payments under the direct and countercyclical payments programs.

(d) Allocation to Dairy

The program levels for 2009 for this program are under the Direct and Countercyclical payments discussed above.

175 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 110

F. Non-Recourse Marketing Assistance Loans and Loan Deficiency Payments[176]

(a) Program Description

The 2008 Farm Act directs the Secretary to make non-recourse marketing assistance loans available to producers for each of the 2008 through 2012 crop years for each covered commodity.[177] Although the purpose of these loans is to ensure that producers have working capital, the effect is to permit production which might not otherwise have occurred and to provide price support. (However, for commodity products, the price support may be diluted if excess production is encouraged, depressing prices. In such cases the program is actually providing income support.)

The non-recourse marketing assistance loans provided to covered commodities are to be made at the following rates,

	2008 – 2009 Crop Year	2010 – 2012 Crop Year
Wheat	$2.75/bu	$2.94/bu
Corn	$1.95/bu	$1.95/bu
Grain Sorghum	$1.95/bu	$1.95/bu
Barley	$1.85/bu	$1.95/bu
Oats	$1.33/bu	$1.39/bu
Upland Cotton	$0.52/lb	$0.52/lb
EL Staple Cotton	$0.7977/lb	$0.7977/lb
Rice	$6.50/cwt	$6.50/cwt
Soybeans	$5.00/bu	$5.00/bu
Other Oilseeds	$9.30/cwt	$10.09/lb
Graded Wool	$1.00/lb	$1.15/lb
Non-Graded Wool	$0.40/lb	$0.40/lb
Mohair	$4.20/lb	$4.20/lb
Honey	$0.60/lb	$0.620/lb
Dry Peas	$5.40/cwt	$5.40/cwt
Lentils	$11.28/cwt	$11.28/cwt
Small Chickpeas	$7.43/cwt	$7.43/cwt[178]
Peanuts	$355 per ton	$355 per ton.[179]

176 Ibid., pg 113
177 Food, Conservation and Energy Act of 2008, Section 1201
178 Ibid., Section 1201(a) and (b)
179 Ibid., Section 1307(b) (a)

Farmers may repay non-recourse farm marketing assistance loans at a rate that is the lesser of,

- the loan rate established under Section 1202 (the rates set out above), plus interest,

  or

- a rate that the Secretary determines will: (a) minimize potential loan forfeitures; (b) minimize accumulation of stocks by the federal government; (c) minimize the cost incurred by the federal government in storing the commodity; (d) allow the commodity produced in the U.S. to be marketed freely and competitively, *both domestically and internationally*; and (e) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.[180] [emphasis added]

For upland cotton and rice, producers may repay marketing assistance loans at a rate that is the lesser of the loan rate established for the commodity under Section 1202 *or* the prevailing world market price for the commodity (adjusted to USA quality and location), as determined by the Secretary.[181] For extra long staple cotton, repayment shall be at the loan rate established under Section 1202 (the rate set out above) plus interest.[182]

Producers can repay these loans in one of three ways:

(i) by repaying the loan at the loan rate plus interest (the U.S. Treasury rate plus 1%),

(ii) by repaying at a lower rate, if applicable, or

(iii) by forfeiting the crop pledged as collateral to the CCC (in which case, the loan becomes the payment price for the crop).[183]

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180 Ibid., Section 1204(a)

181 Ibid., Section 1204(b)

182 Ibid., Section 1204(c)

183 This is an attractive option when prices are below the loan rate – providing income support as opposed to price support.

For extra-long staple cotton, when market prices are below the loan rate, farmers are allowed to repay their loans at a repayment rate that is lower than the loan rate.

Producers can choose to take loan deficiency payments in lieu of marketing assistance loans. The Farm Act requires that loan deficiency payments be made available to producers on a farm that is eligible to obtain a marketing assistance loan under Section 1201 if the producer agrees to forego obtaining the loan in exchange for the loan deficiency payment.[184] The payment rate for loan deficiency payments is the amount by which the loan rate established under Section 1202 exceeds the rate at which a marketing assistance loan for the loan commodity may be repaid under Section 1204.[185] The amount of loan deficiency payment is determined by multiplying the payment rate for the commodity by the quantity of the commodity produced by the producer less any quantity for which the producer obtained a marketing assistance loan.[186]

(b) WTO Consistency

Although loans are ostensibly made to provide farmers with operating funds prior to the harvest and sale of their crop, these loans are clearly provided in a manner that confers a subsidy on producers in the form of a payment and in the form of price (or income) support. By allowing producers to forfeit crop rather than repay the loan, the loan rates become the effective minimum market price for the covered commodity for participating farmers. Thus, this program establishes income support for the covered commodities and provides support to ensure that the actual returns to the farmer does not fall below the floor established by the loan rate.

USDA has noted that,

> "Marketing loans provide loan deficiency payments and marketing loan gains to farmers of loan commodities when market prices are low. Marketing loans also reduce revenue risk associated with price variability."[187]

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[184] Food, Conservation and Energy Act of 2008, Section 1205(a)
[185] Ibid., Section 1205(b)
[186] Ibid.
[187] *The 2002 Farm Act: Provisions and Implications for Commodity Markets*, USDA Agriculture Information Bulletin Number 778, November 2002, pg 5

Consequently, Non-Recourse Marketing Assistance Loans provide a subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures.

The USDA Budget for 2011 describes the marketing loan assistance programs as follows,

> "One method of providing support is loans to and purchases from producers. With limited exceptions, loans made on commodities are nonrecourse. The commodities serve as collateral for the loan and on maturity the producer may deliver or forfeit such collateral to satisfy the loan obligation without further payment."[188]

Consequently, USDA recognizes that the loan program provides price support. Farmers can choose to take loan program benefits directly, as loan deficiency payments, when market prices are lower than commodity loan rates. In this respect, the loan rate established for each commodity becomes the floor price for that commodity.

The loan program also has trade distorting effects. The Canadian Wheat Board (CWB) has reviewed the U.S. domestic subsidy programs and their effect on planting decisions.

> "In terms of acreage distortion amongst commodities, the marketing loan program is the most important given its direct ties to current acreage and yields. Many have argued that the favourable loan rate for soybeans in the 1996 Farm Bill has been largely responsible for the 10 million-acre increase (15 percent) in soybean area since 1996. Over the same time, wheat area in the United States has fallen by 15 million acres (20 percent), while corn acreage has remained relatively flat."[189]

The higher loan rates for most commodities set out in the Farm Bill raise the effective market returns for farmers, thereby insulating them from market price signals. Changes in loan rate spreads between commodities have an impact on planting decisions. Thus, readjustment of the soybean rate is expected to result in increased corn and wheat acreage in the United States.[190]

The fact that the non-recourse marketing assistance program has these trade-distorting effects is significant. The program does not simply provide market rate loans to producers and the

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188 USDA, *The Budget for Fiscal Year 2011*, Commodity Credit Corporation, pg 110
189 CWB, *Farm Security and Rural Investment Act of 2002*, May 23, 2002, at pg 3 of 7
190 Ibid.

program does not simply provide income support by setting the effective price floor for the covered commodities. The difference in the loan rates offered for the various commodities creates an incentive to produce one commodity over another. As noted by the CWB, more favourable loan rates, from the perspective of producers, resulted in a shift in production from wheat and corn to soybeans and re-adjustments to those rates could result in a shift back.

By insulating producers from market signals, the non-recourse marketing loan program has the effect of encouraging the over-production of covered commodities and of stimulating production of some agricultural products over others. Planting decisions by producers are driven by the available government support and not by market signals. As a result, the non-recourse marketing assistance program is clearly trade distorting because, in the absence of these loans, or if market driven loans were the only financing available, producers would make different planting decisions, or in some cases, decide to abandon farming.

The fact that the loans will result in benefit to producers, in the form of transfers from the government to producers, is also recognized in the 2008 Farm Bill provisions that limit the amount of support any individual can receive. These provisions of the 2008 Farm Bill limit the amount of direct payments to $40,000 per person per crop year and counter-cyclical payments to $65,000 per person per crop year. Limits are also established on marketing loan and loan deficiency payments, which are restricted to $75,000 per person per crop year.[191] Consequently, the fact that the Farm Act imposes these limits on payments to individual producers under these programs confirms that the USA recognizes that these programs confer a benefit on recipient producers.

Therefore, the non-recourse marketing assistance loans provide price support and are trade-distorting. As the loans effectively establish a floor price for the covered commodities (including feedgrains and oilseeds which may be used by dairy producers), they provide income support to the level of that loan rate. As the relative loan rates can provide an incentive to produce one commodity over another, they are also production and trade-distorting. As these

[191] USDA, *The Budget for Fiscal Year 2011*, Commodity Credit Corporation, pg 112

programs have production and price supporting and trade-distorting effects, they may not be excluded from the U.S. AMS under Article 6 and Annex 2 of the *Agreement on Agriculture*.

(c) Program Level

Total obligations for this program are estimated at:

FY 2009	$8,290,909,000
FY 2010	$8,593,372,000
FY 2011	$8,345,955,000 [192]

The benefits tend to be understated, as the 9 month loan cycle results in repayment within the crop for fiscal year. Program levels are, therefore, understated and misleading.

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total obligations under this program in 2009 were estimated at $8,290,909,000. Therefore, the amount allocated to dairy production under this program is $887,127,263.

[192] 10.051 Commodity Loans and Loan Deficiency Payments, The Catalog of Federal Domestic Assistance, pg 3 of 4

G. Price Support Marketing Assistance Loans and Related Stabilization Programs[193]

(a) Program Description

The Corporation conducts programs to support farm income and prices and stabilize the market for agricultural commodities. Price support is provided to producers of agricultural commodities through loans, purchases, payments, and other means. This is done mainly under the Commodity Credit Corporation Charter Act, as amended, the Agricultural Act of 1949 (1949 Act), as amended, the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), and the Food, Conservation and Energy Act of 2008 (2008 Farm Bill). Price support is mandatory for sugar and dairy products. Marketing assistance loans are mandatory for wheat, feed grains, oilseeds, upland cotton, peanuts, rice, and pulse crops. Loans are also required to be made for sugar, honey, wool, mohair, and extra long staple cotton.[194]

(b) WTO Consistency

These are price support programs which are by definition “yellow” box and subject to AMS reduction.

(c) Program Level

2009 (Enacted)	$3,499,000,000
2010 (Estimate)	$2,278,000,000
2011 (Budget)	$127,000,000[195]

193 Department of Agriculture, *The Budget for Fiscal Year 2010*, pg 113
194 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 110
195 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 30

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(d) Allocation to Dairy

Total obligations under this program were $2,278,000,000. Therefore, the amount allocated to dairy production under this program is $243,746,000

H. Disaster Payments

(a) Program Description

The U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, P.L. 110–28, appropriated $2.8 billion in agricultural disaster aid for America's farmers and ranchers. The 2008 Consolidated Appropriations Act, P.L. 110–161, provided an additional $602 million under Sec. 743, which extends the period of loss eligibility for disaster assistance from February 28, 2007 to December 31, 2007. Unlike previous disaster supplemental Appropriations Acts, funding is through USDA Disaster Assistance rather than CCC.[196]

(b) WTO Consistency

Bona fide disaster relief programs are not subject to AMS reduction if they meet the criteria set out in Annex 2(8) of the agreement on agriculture.

(c) Program Level

2009	(Enacted)	$6,000,000
2010	(Estimate)	$1,525,000,000
2011	(Budget)	$1,398,000,000

(d) Allocation to Dairy

Total obligations under this program in 2009 were $1,525,000,000. Therefore, the amount allocated to dairy production under this program in 2009 is $163,175,000.[197]

196 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 112
197 Ibid., pg 121

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I. Milk Income Loss Contract Payments (MILC)[198]

(a) Program Description

The Milk Income Loss Contract Payments program financially compensates dairy producers when the Boston Class 1 milk price falls below $16.94/cwt. Payments are issued up to a maximum of 2.4 million pounds of milk produced and marketed by a dairy operation during the fiscal year.

Payment rates are determined by multiplying 45% of the difference between $16.94/cwt and the Boston Class 1 price for each month. For example,

> Boston Class 1 price in October 2002 $13.40/cwt
> $16.04 - $13.40 = $3.54
> $3.54 X 45% = $1.593
> Payment rate for October 2002 = $1.593/cwt

Dumped milk that causes contamination of a bulk load for which an insurance indemnity is paid to the producer and milk dumped on the farm by a state or health department order is considered ineligible milk production.

(b) WTO Consistency

The Milk Income Loss Contract Payments provide subsidies to eligible producers when the Boston Class 1 milk price falls below $16.94/cwt. At that point, the program is providing direct payments to producers.

As it is clearly a subsidy, the only issue is whether these payments are exempt from U.S. domestic support reduction commitments.

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198 Department of Agriculture, *The Budget for Fiscal Year 2010*, pg 115

The payments at issue do not appear to fall within any of the specific exemptions set out in Annex 2 to the Agreement on Agriculture. The basic criteria for exemption is that the support shall have no, or at most minimal trade-distorting effects or effects on production. To meet this requirement, support measures shall be provided through a publicly-funded government program and shall not have the effect of providing price support to producers.

The payments at issue are provided when the price of milk falls below a pre-determined point and support up to 2.4 million pounds of production per farm. It seems dubious that the program would have trade-distorting effects or effects on production. The clear intent of the program is to insulate producers from the market and to support prices. Consequently, the program arguably has an effect on production and a trade-distorting effect.

More importantly, the program as applied provides income support for eligible U.S. dairy production. As a price/income support program, payments made under the Milk Income Loss Contract program should be included in the U.S. AMS and be subject to reduction commitments.

(c) Program Level

The total obligations for this program are estimated at

FY 2009	$757,000,000
FY 2010	$225,000,000 [199]

(d) Allocation to Dairy

The Milk Income Loss Contract Payment Program is intended to support dairy production. Therefore, 100% of the program funding, or $757,000,000 for 2009, should be allocated to dairy production.

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[199] *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 30

J. Noninsured Assistance Payments (Budget Code 12-4336-0-3-999.00.23)[200]

(a) Program Description

The Noninsured Assistance Payments program provides financial assistance to non-insurable crops when low yields, loss of inventory or prevented planting occurs due to natural disasters. The financial assistance is equivalent to catastrophic risk protection insurance.[201]

Eligible crops include all non-insurable crops and agricultural commodities that are not eligible for catastrophic risk protection insurance.

To be eligible, producers must pay the required service fee 30 days prior to the coverage period. The service fee is the lesser of $250 per crop or $750 per producer per administrative county, not to exceed a total of $1,875 for a producer with farming interests in multiple counties. [202]

The natural disaster must occur before or during harvest and must directly affect the eligible crop.

(b) WTO Consistency

The support provided under this program constitutes a subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. However, these payments would not be included in the U.S. AMS or be subject to reduction commitments. Annex 2(8) to the Agreement on Agriculture exempts payments for relief from natural disasters. The payments at issue, which are tied to natural disasters that occur before or during harvest and which directly affect the eligible crop, are clearly intended to provide relief from those natural disasters.

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200 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 109
201 Noninsured Crop Disaster Assistance Program, USDA Fact Sheet
202 Disaster Assistance, Farmer Service Agency Online

(c) Program Level

The FY 2010 Budget for the Department of Agriculture reports the following obligations for this program:[203]

2009	(Actual)	$62,000,000
2010	(Estimate)	$122,000,000
2011	(Estimate)	$124,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total obligations under this program in 2009 were estimated at $62,000,000. Therefore, the amount allocated to dairy production under this program is $6,634,000.

[203] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 109

K. Farm Storage and Sugar Storage Facility Loans (Budget Code 12-3301-0-1-351)[204]

(a) Program Description

This program provides concessional financing to grain producers to build or upgrade farm storage and handling facilities.[205] Covered commodities include wheat, rice, soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, crambe, other oilseeds as determined and announced by the Commodity Credit Corporation, as well as corn, grain sorghum, oats or barley harvested as whole grain. Corn, grain sorghum, wheat or barley not harvested as whole grain are also eligible.

Eligible borrowers include any landowner, landlord, operator, producer, tenant, leaseholder or sharecropper. Eligible borrowers must have a satisfactory credit history and meet the requirements of the program.

Loans are provided for the purchase and installation of eligible storage facilities, permanently affixed drying or handling equipment, or for remodeling existing facilities. Storage structures for commercial purposes, portable handling or drying equipment and portable or permanent weigh scales are ineligible for loans. The program gives producers greater marketing flexibility when farm storage is limited and/or transportation difficulties cause shortage problems, allows farmers to benefit from new marketing and technological advances and maximizes returns through identity-preserved marketing.

The maximum loan amount is $500,000 per loan. [206]

The program provides financing with five and ten year repayment terms at low rates. (Sugar loan terms are minimum seven years.)

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204 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 120

205 This program was discontinued in the early 1980s and re-established in 2000 due to a severe shortage of sufficient available storage.

206 Farm Storage Facility Loan Program, USDA Fact Sheet, August 2009

Interest is charged at a rate equivalent to the rate of interest charged on U.S. Treasury securities of comparable maturity on the date the loan is approved. The interest rate for each loan will remain in effect for the term of the loan.

(b) WTO Consistency

As the loans at issue are provided at U.S. Treasury security rates and the financing is described as commercial – which means not available on the market – in these circumstances, the program would provide a subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures.

The program does not appear to fit any of the exclusions from AMS reduction in Annex 2 of the Agreement on Agriculture. Annex 2(1) of the Agreement on Agriculture provides that domestic support measures for which exemption from reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most, minimal trade-distorting effects or effects on production. Unfortunately there is no definition much less an agreed definition of "minimal" in this connection.

Absent subsidized storage, it is quite likely these products could not be marketed or would be more expensive if they were stored in private commercial facilities, so we would argue that the program encourages harvest (production) and sale of these commodities.

(c) Program Level

The FY 2011 Budget for the Department of Agriculture reports the following budget authority for the program:

2009	(Actual)	$245,000,000
2010	(Estimate)	$289,000,000
2011	(Estimate)	$302,000,000

We have allocated on the basis of the outlays rather than the budget authority.

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers, but we note that it may provide assistance to storage for feedgrains used by dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total obligations under this program in 2009 were estimated at $245,000,000. Therefore, the amount allocated to dairy production under this program is $26,215,000.

L. Dairy Indemnity Payment Program [207]

(a) Program Description

This program provides indemnity payments to dairy producers who have been directed to remove raw milk from the commercial market because it has been contaminated with pesticides, nuclear radiation or fallout, or toxic substances or chemicals other than pesticides.

Payments are made to manufacturers of dairy products only for products removed from the market because of pesticide contamination.

The indemnity payment to dairy producers is calculated using the following formula.

- the number of cows milked; times
- the number of days milk is off the market; times
- base production in terms of pounds per cow per day; times
- farm price for milk with the same butterfat content
- less handling and promotion fees received by the producer

The base period for the payment is the calendar month two biweekly pay periods immediately before the milk is removed from the market.

The indemnity payment to manufacturers of dairy products is calculated by multiplying the fair market value of the product by the amount of product removed from the market less any salvage value for the product.

[207] Dairy Indemnity Payment Program, USDA Farm Program Fact Sheet, September 2010

(b) WTO Consistency

This program provides subsidies to producers, but because the subsidies are not tied to production would not likely have a trade distorting effect. They may be "green". These payments may constitute domestic support that need not be included in the U.S. AMS and is not subject to reduction commitments.

(c) Program Level

Obligations under this program were estimated to be $1,000,000 for FY 2009 and FY 2010.[208]

(d) Allocation to Dairy

This program is dedicated to supporting dairy production; therefore 100% of the obligations under this program, estimated at $1,000,000 for FY 2009 and FY 2010, should be allocated to dairy production.

208 Department of Agriculture, *The Budget of Fiscal Year 2011*, pg 105

M. Dairy Price Support Program

(a) Program Description

The 2002 Farm Bill extended the Dairy Price Support Program from June 1, 2002 through December 31, 2007 at a rate of $9.90 per hundredweight for milk containing 3.7% butterfat. The support program is carried out through the purchase of butter, nonfat dry milk, and cheese at prices that enable processors to pay dairy farmers, on average, the support price for milk.[209]

(b) WTO Consistency

This is a price support program which takes product off the market – in order to reduce price pressures. It provides a benefit to farmers and would be considered amber box. It helped to keep dairy farmers in business and would appear to have helped U.S. dairy exports to recover.

(c) Program Level (Discretionary)

2009 (Enacted)	$0
2010 (Estimate)	$350,000,000
2011 (Budget)	$0 [210]

(d) Allocation to Dairy

There were substantial payments to dairy farmers in 2009, when their net loss on selling was about $7.00/cwt. We have not been able to locate precise information on expenditures under this program.

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[209] Ibid., pg 112

[210] *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 26

III. Export Subsidies

A. Foreign Agricultural Service

The Foreign Agricultural Service administers programs that promote U.S. agricultural exports and that are intended to develop long-term overseas markets for U.S. products. The objective is to enhance economic opportunities for U.S. agricultural producers, with a particular focus on export markets.

The Foreign Agricultural Service's (FAS) mission is linking U.S. agriculture to the world to enhance export opportunities and global food security. FAS helps to provide outlets for the wide variety of agriculture products produced by U.S. farmers, thereby enhancing economic activity for U.S. workers. FAS serves U.S. agriculture's interests by expanding and maintaining international export opportunities, supporting international economic development and trade and science capacity building, and supporting climate change analysis and U.S. agricultural interests in international negotiations. The outcomes envisioned are exports that help U.S. agriculture prosper, the expansion of U.S. exports of organics and crops produced using new technologies, food that is globally available, accessible, and appropriately used, and climate change provisions in international agreements that benefit U.S. agriculture.

Funding for programs administered by the Foreign Agricultural Service includes monies expended by the Commodity Credit Corporation, excluding funding on account of international food aid, which is dealt with in Section IV below. The FY 2011 Budget Summary reports the following program levels for the Foreign Agricultural Service:[211]

2009	(Enacted)	$25,644,000,000
2010	(Estimate)	$23,805,000,000
2011	(Budget)	$24,485,000,000

[211] Department of Agriculture, *The Budget of Fiscal Year 2011*, pg 134

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The programs administered by the Foreign Agricultural Service include programs that provide support exclusively to dairy producers as well as programs that are generally available.

In 2009, $116,600,000 was provided exclusively to the dairy producers (Dairy Export Incentive Program).

Deducting $116,600,000, the amount budgeted for DEIP which was exclusively for the benefit of dairy producers from the $3,198,000,000 budgeted by the Foreign Agricultural Service on account of all programs leaves $3,081,400,000 which benefitted dairy producers directly or indirectly but, was not in a program designed exclusively to support dairy production.

In 2009, the amount of support provided to dairy through these program level allocations can be determined on the basis of dairy's proportionate share of total U.S. agricultural production. In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $3,081,400,000 expended in 2009, $329,709,800 can be allocated to dairy production.

Therefore, total support provided to dairy producers through programs administered by the Foreign Agricultural Service in 2009 was $445,709,800,000.

B. Export Credit Guarantee Programs (Budget Code 12-1336-0-1-351-215999)[212]

(a) Program Descriptions

The Commodity Credit Corporation provides payment guarantees under the Export Credit Guarantee programs for the financing of U.S. agricultural exports. These programs are used in countries where the ability to offer and provide credit is necessary to maintain or increase U.S. export sales, but where the financing may not be commercially available without guarantees.

Short-Term Guarantees (GSM 102); Intermediate-Term Guarantees (GSM 103); Supplier Credit Guarantees

The Commodity Credit Corporation may use export credit guarantees for any or all of the following purposes:

- to increase exports of U.S. agricultural commodities;
- to compete against foreign agricultural exports;
- to assist countries, particularly developing countries, meet their food and fiber needs;
- for such other purposes as the Secretary of Agriculture determines.[213]

GSM-102 and GSM-103 guarantees underwrite the credit extended by the private banking sector to approved foreign banks using dollar-denominated, irrevocable letters of credit to pay for food and agricultural products sold to foreign buyers. The *Export Credit Guarantee Program (GSM-102)* offers credit for 90 days to 3 years. The *Intermediate Export Credit Guarantee Program (GSM-102)* offers credit for 3 to 10 years.

[212] Department of Agriculture, *The Budget for Fiscal Year 2010*, pg 120
[213] Subpart A – Restrictions and Criteria for Export Credit Guarantee Programs

Under these programs, the CCC guarantees payments due from foreign banks, which permit the U.S. financial institution to offer competitive credit terms to the foreign banks, usually with the interest rates based on the London Inter-Bank Offered Rate (LIBOR).

"Interested parties", including U.S. exporters, foreign buyers and banks, may request that the CCC establish a GSM-102 or GSM-103 program for a country or region. CCC will determine the ability of each country and foreign bank to service CCC-guaranteed debt.

The program is open to exports of all U.S. agricultural products. CCC selects agricultural products and commodities according to market potential.[214] Eligible commodities are limited to those that are produced entirely in the United States, including dairy products.[215]

The Supplier Credit Guarantee Program is used by USDA to encourage exports to countries where extending credit is necessary to maintain or increase U.S. sales but where financing may not be available without CCC guarantees. Under this program, CCC guarantees a portion of payments due from importers under short-term financing (up to 180 days) that exporters have extended directly to importers for the purchase of U.S. agricultural products. These direct credits must be secured by promissory notes signed by the importers.[216]

This program offers alternative credit options. USDA considers that the Supplier Credit Guarantee Program may be helpful in countries where GSM-102 financing is limited because CCC has reached its exposure limits for private foreign banks.

USDA also considers that this program may work well for commodities and products that normally trade on short-term open-account financing.

214 Fact Sheet: CCC Export Credit Guarantee Program, November 2009
215 Fact Sheet: Supplier Credit Guarantee Program, March 2006
216 Ibid.

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(b) WTO Consistency

GSM-102, GSM-103 and the Supplier Credit Guarantee Program were considered by the Panel in *United States – Upland Cotton*.[217] Brazil argued that these programs violated Articles 10.1 and 8 of the Agreement on Agriculture[218] (see para 7.767). Brazil relied on item (j) of the Illustrative List of Export Subsidies in Annex I of the SCM Agreement to argue that the export credit guarantee programs fall within Article 10 of the Agreement on Agriculture on the basis that the premium rates charged are inadequate to cover the long term operating costs and losses of the program. (see para 7.768)

The United States, relying on Article 10.2 of the Agreement on Agriculture, argued that export credit guarantees are not export subsidies and are not subject to the export subsidy disciplines of the Agreement on Agriculture. (see para 7.770) The U.S. also argued that even if the SCM Agreement applied, the export credits guarantee programs do not confer a benefit because identical instruments are available in the marketplace in the form of "forfeiting" and private insurance. (para 7.773) The U.S. also noted that it is permitted to provide export subsidies that comply with its scheduled quantitative reduction commitments and, in this respect, relied on the "mandatory/discretionary" analysis to ask whether the provisions establishing the export credit guarantee programs were in a breach of any WTO obligation. (see para 7.774)

The Panel noted that WTO and GATT practice considered that export credit guarantees may generally be considered to constitute export subsidies. (see para 7.806) The Panel considered these programs, their operations, costs and premiums collected and determined that *per se* they constitute an export subsidy within the meaning of item (j) of the Illustrative List of Export Subsidies. (see para 7.869)

Having determined that these programs are *per se* export subsidies, the Panel then turned to the issue of whether the export credits were applied in a manner that threatened to circumvent U.S. export subsidy commitments.

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[217] World Trade Organization (WTO), United States—Subsidies on Upland Cotton; Report to the Panel (WT/DS267/R), 8 September, 2004, pgs 192, 193, 194, 200, 217
[218] Ibid., para 7.67

The Panel considered the application of these programs and determined that, with respect to upland cotton and other unscheduled agricultural products supported under the program, and in respect of one scheduled product (rice), the export credit guarantee programs were applied in a manner which resulted in circumvention of U.S. export subsidy commitments, in violation of Article 10.1 of the Agreement on Agriculture and, therefore, the programs are inconsistent with Article 8 of the Agreement on Agriculture. In addition, the Panel determined that the export credit guarantee programs are not protected by the Peace Clause in Article 13 of the Agreement on Agriculture and that as the guarantees are provided at premium rates that are inadequate to cover long-term operating costs and losses, the programs constitute export subsidies prohibited by Article 3.1(a) and 3.2 of the Agreement on Subsidies and Countervailing Measures. (see para 8.1(d)(i))

However, with respect to unscheduled agricultural products not supported by these programs, and other scheduled agricultural products, the Panel found that these export credit guarantee programs did not violate Articles 10.1 and 8 of the Agreement on Agriculture. In addition, the Panel determined that Brazil failed to establish a *prima facie* case that the programs do not conform fully to Part V of the Agreement on Agriculture. Consequently, the Panel considered that it must treat these programs as if they were protected by the Peace Clause. (see para 8.1(d)(ii))

These credits provided under these export credit guarantee programs are export subsidies for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. Thus, these export subsidies will be prohibited if they are provided to support unscheduled agricultural products (products for which the U.S. does not have the ability to provide any export subsidy support) or if they are provided to support scheduled agricultural products in excess of the bound export subsidy commitments for that specific product.

(c) Program Level

The FY 2011 Budget for the Department of Agriculture reports the following budget authority for this program:[219]

2009 (Actual)	$5,357,000,000
2010 (Estimate)	$5,400,000,000
2011 (Estimate)	$5,400,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total budget authority provided for this program in 2009 amounted to $5,357,000,000. Therefore, the amount allocated to dairy production under this program is $573,199,000.

[219] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 120

C. Facilities Financing Guarantees[220]

(a) Program Description

The U.S. Department of Agriculture's Facility Guarantee Program (FGP) is designed to expand sales of U.S. agricultural products to emerging markets where inadequate storage, processing, or handling capacity limit trade potential. The program provides payment guarantees to finance commercial exports of U.S. manufactured goods and services that will be used to improve agriculture-related facilities.

Emerging markets often lack the infrastructure to support increased trade volume. Export sales of U.S. equipment or expertise to improve ports, loading and unloading capacity, refrigerated storage, warehouse and distribution systems, and other related facilities may qualify for facility guarantees, as long as these improvements are expected to increase opportunities for U.S. agricultural exports.

Under this program, USDA's Commodity Credit Corporation (CCC) guarantees payments due from approved foreign banks to exporters or financial institutions in the United States. USDA's Foreign Agricultural Service (FAS) administers this program on behalf of the CCC. The financing must be obtained through normal commercial sources. Typically, a guarantee covers 95% of principal and a portion of interest. FGP regulations are found in the Code of Federal Regulations 7 CFR 1493.

Qualified Projects The Secretary of Agriculture must determine that the project will primarily promote the export of U.S. agricultural commodities or products to emerging markets.

Emerging Market An emerging market is a country that the Secretary of Agriculture determines: (1) is taking steps toward a market-oriented economy through the food, agricultural,

220 *Facility Guarantee Program*, FACT Sheet, FASOnline, March 2007

or rural business sectors; and (2) has the potential to provide a viable and significant market for U.S. agricultural products.

U.S. Content Only U.S. goods and services are eligible under the program. The CCC will consider projects only where the combined value of the foreign components in U.S. goods and services approved by the CCC represents less than 50% of the eligible sales transaction.

Initial Payment An initial payment representing at least 15% of the value of the sales transaction must be provided by the importer to the exporter.

Payment Terms Payment terms may range from 1 to 10 years, with semi-annual installments on principal and interest. The applicable program announcement will specify actual payment terms.

Payment Mechanism Payment must be made to the exporter in U.S. dollars on deferred payment terms under an irrevocable foreign bank letter of credit.

Coverage The CCC determines the rate of coverage (currently 95%) that will apply to the value of the transaction, excluding the minimum 15-percent initial payment. The CCC also covers a portion of interest on a variable rate basis. The CCC agrees to pay exporters or their assignee financial institutions in the event a foreign bank fails to make payment pursuant to the terms of the letter of credit. The FGP does not cover the risk of defaults on credits or loans extended by foreign banks to importers or owners of facilities.

(b) WTO Consistency

The export credit guarantees provided under this program likely constitute subsidies on the basis that they provide a benefit to recipients. The benefit is in the form of credit guarantees provided at rates that are not available to the borrower on the commercial market. In addition, it is likely that the premiums charged for these credit guarantees do not cover the long term operating costs of the program.

If the program provides a subsidy, it is a subsidy that is contingent on the export of U.S. equipment or expertise. This is evident from the fact that the program is not available to support domestic infrastructure projects.

As the program supports exports of equipment and expertise, and not agricultural products, the export subsidies are not subject to the Agreement on Agriculture, but would be subject to the Agreement on Subsidies and Countervailing Measures.

Article 3.1(a) of the SCM Agreement prohibits export subsidies. With respect to Agriculture, such subsidies are permitted up to the levels inscribed in individual countries bound export subsidy commitments.

Therefore, as the program provides export subsidies, the export credit guarantees are provided in violation of SCM Article 3.1(a).

(c) Program Level

There was no money enacted in 2009 budget for this program, but $100 million is estimated for 2010 and $44 million for 2011.[221]

2009	(Enacted)	----
2010	(Estimate)	$100,000,000
2011	(Budget)	$44,000,000

(d) Allocation to Dairy

There was no money enacted in 2009 budget for this program, but $100 million is estimated for 2010 and $44 million for 2011.[222]

221 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 44
222 Ibid.

D. **Market Access Program** (Budget Code 12-4336-0-3-999.00.04)[223]

(a) Program Description

The Market Access Program (MAP) uses funds from the U.S. Department of Agriculture's (USDA) Commodity Credit Corporation (CCC) to aid in the creation, expansion, and maintenance of foreign markets for U.S. agricultural products. The MAP is authorized by Section 203 of the Agricultural Trade Act of 1978, and is administered by USDA's Foreign Agricultural Service (FAS).[224]

The MAP forms a partnership between non-profit U.S. agricultural trade associations, non-profit U.S. agricultural cooperatives, non-profit state-regional trade groups, small U.S. businesses, and USDA's CCC to share the costs of overseas marketing and promotional activities, such as trade shows, market research, consumer promotions for retail products, technical capacity building, and seminars to educate overseas customers.[225]

Participation in MAP is also not restricted to non-commercial entities. Although non-profit organizations and regional trade groups may receive MAP assistance, support can also be given to a "small-sized USA commercial entity (other than a cooperative or producer association)." The fact that MAP is available to corporations is made clear in the MAP announcements for 2009 which include $927,934 of the $200 million being allocated to Welch's Food.[226]

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223 Department of Agriculture, *The Budget for Fiscal Year 2010*, pg 112
224 USDA Factsheet: Market Access Program, December 2009
225 Ibid.
226 Ibid.

(b) WTO Consistency

The Market Access Program provides subsidies to support U.S. agricultural product exports. The allocations made under this program, which are financial contributions by government, confer a benefit on the recipient. Thus, allocations made under MAP are subsidies for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. These subsidies are provided to support exports and, thus, are made contingent on actual or anticipated export performance.

On this basis, the subsidies provided by MAP are export subsidies. Export subsidies are prohibited under the Article 3(1)a of the Agreement on Subsidies and Countervailing Measures but are permitted by the Agreement on Agriculture so long as they are made within U.S. export subsidy bindings. Thus, to the extent that MAP support is provided within U.S. export subsidy bindings, the subsidies are not prohibited. However, should MAP be used to support the export sale of non-scheduled U.S. agricultural products or are provided in excess of U.S. export subsidy bindings, the provision of MAP subsidies would violate the United States WTO obligations.

(c) Program Level

The FY 2010 Budget for the Department of Agriculture reports the following funding for this program:[227]

2009	(Actual)	$233,000,000
2010	(Estimate)	$200,000,000
2011	(Estimate)	$200,000,000

[227] Department of Agriculture, *The Budget for the Fiscal Year 2011*, pg 109

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under this program in 2009 amounted to $233,000,000. Therefore, the amount allocated to dairy production under this program is $24,931,000.

E. Foreign Market Development (Cooperator) Program (Budget Code 12-4336-0-3-999. 00.07)[228]

(a) Program Description

The Foreign Market Development Program (also referred to as the Cooperator or Cooperative Program) is a program operated by the Commodity Credit Corporation to support the creation, expansion and maintenance of long-term export markets for U.S. agricultural products. The program has been in existence for 45 years and has fostered a promotion partnership between USDA and U.S. agricultural producers and processors (represented by nonprofit commodity or trade associations called "Cooperators").

The program assists U.S. farmers, processors and exporters by assisting their organizations to develop new foreign markets and to increase market share in existing markets. The program supports generic U.S. commodities rather than brand-name products.

The program uses CCC funds to partially reimburse Cooperators conducted approved overseas promotional activities. Preference is given to non-profit U.S. agricultural and trade groups that represent an entire industry or that are nationwide in membership and scope.

The total allocation for FY 2010 is $34.5 million, which has been apportioned among the following groups:[229]

American Forest & Paper Association	$3,286,753
American Peanut Council	$693,985
American Seed Trade Association	$214,329
American Sheep Industry Association	$172,932
American Soybean Association	$6,825,849
Cotton Council International	$4,753,847

228 Ibid.
229 USDA Fact Sheet: Foreign Market Development Program, December 2009

Leather Industries of America	$152,789
National Hay Association	$72,844
National Renderers Association	$888,947
National Sunflower Association	$242,286
North American Millers Association	$57,139
U.S. Dairy Export Council	$704,974
U.S. Dry Bean Council	$129,550
U.S. Grains Council	$4,033,859
U.S. Hide, Skin and Leather Association	$146,322
U.S. Livestock Genetics Export, Inc	$719,867
U.S. Meat Export Federation	$1,731,705
U.S. Wheat Associates	$3,845,230
USA Dry Pea and Lentil Council	$173,750
USA Poultry and Egg Export Council	$1,516,601
USA Rice Federation	$1,543,614

(b) WTO Consistency

The Foreign Market Development Program provides subsidies to support the sale of U.S. agricultural products. The program provides a subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures by making a financial contribution that confers a benefit on the recipient. Because this subsidy is made contingent on actual or anticipated export earnings, it is an export subsidy.

Export subsidies are prohibited by the Agreement on Subsidies and Countervailing Measures but are permitted by the Agreement on Agriculture so long as they are not provided in excess of U.S. export subsidy bindings. Therefore, if export subsidies under this program are provided to support the export sale of unscheduled U.S. agricultural products or are provided in excess of U.S. export subsidy bindings, the support provided will violate U.S. WTO obligations.

(c) Program Level

The FY 2011 Budget reports the following funding on account of this program:[230]

2009 (Actual)	$35,000,000
2010 (Estimate)	$35,000,000
2011 (Estimate)	$35,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. The 2009 allocation for the Dairy Export Counsel was $640,575. Dairy farmers may also have benefited from grants to Meat and Livestock export groups.

Total funding provided under this program in 2009 amounted to $34,500,000. For conversion of allocation methodology the amount allocated to dairy production under this program is $3,691,500 which represents 10.7% of the program level.

230 Department of Agriculture, *The Budget of Fiscal Year 2011, pg 109*

F. Emerging Market Program[231]

(a) Program Description

The Emerging Markets Program is a market access program that provides funding for technical assistance activities intended to promote exports of U.S. agricultural commodities and products to emerging markets in all geographic regions, consistent with U.S. foreign policy. The program is authorized by the Food, Agriculture, Conservation, and Trade Act of 1990, as amended. The EMP regulations appear at 7 CFR part 1486. Funding is set at $10 million each fiscal year from the Commodity Credit Corporation from now through the end of the current Farm Bill.

The Emerging Markets Program is a generic program. Its resources may be used to support exports of U.S. agricultural commodities and products only through activities relating to products generically, i.e., pork or milk. Projects that endorse or promote branded products are not eligible for the Program.

Funding is provided through three channels: (1) the Central Fund, the principle means of funding, made available through a public announcement; (2) the Technical Issues Resolution Fund, to address technical barriers to exports; and (3) the Quick Response Marketing Fund, to assist in resolving short-term time-sensitive market access issues.

What is an Emerging Market? The legislation defines an emerging market as any country that "is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country," and "has the potential to provide a viable and significant market for United States commodities or products of United States agricultural commodities."

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231 *2008 Emerging Markets Program*, Fact Sheet, FASOnline, December 2008

PART I

There is no fixed list of "emerging market" countries. Because funds are limited and the range of emerging markets is worldwide, the Program uses certain administrative criteria, in addition to the legal definition above, to determine whether a country is considered an emerging market:

> 1) Per capita income of less than $11,455, the current ceiling on upper middle income economies as determined by the World Bank.
>
> 2) Population greater than 1 million (the program may encompass regional groupings, such as the islands of the Caribbean Basin).

Guidance on qualified emerging markets is provided each year in the Program's application announcement.

Program Priorities. The principal purpose of the program is to assist U.S. organizations, public and private, to improve market access by developing, maintaining, or enhancing U.S. exports to low- and middle-income countries which have or are developing market-oriented economies, and which can be viable markets for these products. The underlying premise is that emerging agricultural markets have distinctive characteristics that benefit from U.S. governmental assistance before the private sector moves to develop these markets through normal trade promotional activities. All agricultural commodities except tobacco are eligible for consideration.

Cost-sharing, the funding U.S. private organizations are willing to commit from their own resources to seek export business in an emerging market, is one of the requirements needed in an application in order to qualify for funding assistance under the Emerging Markets Program. Justification for federal funding is also required.

Types of Projects and Activities. Funding is on a project-by-project basis. Many types of technical assistance activities that promote markets for U.S. agricultural products may be eligible for funding. Examples include feasibility studies, market research, sectorial assessments, orientation visits, specialized training, and business workshops. The program is not intended for projects targeted at end-user consumers. Ineligible activities include in-store promotions; restaurant promotions; branded product promotions (including labelling and supplementing normal company sales activities designed to increase awareness and stimulate sales of branded products); equipment purchases; costs of new product development; administrative and operational expenses for trade shows; advertising; preparation and printing of brochures, flyers, posters, etc., except in connection with specific technical assistance activities such as training seminars; and design of development of Internet Web sites.

The program complements other FAS marketing programs. Once a market access issue has been addressed by the Emerging Markets Program, further market development activities may be considered under other FAS programs.

Eligible Organizations. Any U. S. agricultural or agribusiness organization, university, state department of agriculture, or USDA agency (or other federal agency involved in agricultural issues) is eligible to participate in the Emerging Markets Program. Preference will be given to proposals indicating significant support and involvement by private industry. Proposals will be considered from research and consulting organizations only as long as they can demonstrate evidence of substantial participation by U.S. industry. For-profit entities are also eligible, but may not use program funds to conduct private business, promote private self-interests, supplement the costs of normal sales activities, or promote their own products or services beyond specific uses approved for a given project. USDA market development cooperators may seek funding to address priority, market-specific issues or to undertake activities not already serviced by or unsuitable for funding under other FAS marketing programs, such as the Foreign Market Development Program and Market Access Program.

The opportunity for applying to the Emerging Markets Program during the annual open solicitation period is announced in the Federal Register and on the FAS Internet Web site.

Advisory Committee on Emerging Markets. A private sector advisory committee provides information and advice to help USDA develop strategies for providing technical assistance and enhancing markets for U.S. agricultural products in developing market economies. More specifically, Committee members review from a business perspective qualified proposals submitted to the Program for funding assistance. The Secretary of Agriculture appoints members to the committee for 2-year terms.

(b) WTO Consistency

The support provided under this program is a subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. As the subsidy is contingent on export performance, it is an export subsidy.

Export subsidies are prohibited by the Agreement on Subsidies and Countervailing Measures but are permitted by the Agreement on Agriculture so long as they are provided within U.S. export subsidy bindings. Therefore, so long as the support provided under this program is not provided to non-scheduled U.S. agricultural products and is not provided to scheduled products in excess of export subsidy bindings, the U.S. can provide support under this program without violating its WTO obligations. It is possible that this program may not be subject to AMS reductions commitments as it appears to be too far removed from non-generic or commercial export promotion.

(c) Program Level

The budget maintains funding for the Emerging Markets Program at $10 million, consistent with the relevant provisions of the 2008 Farm Bill. [232]

(d) Allocation to Dairy

This program neither provides benefits exclusively to dairy producers nor excludes them. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of

232 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 46

U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under this program in 2009 amounted to $10,070,000. Therefore, the amount allocated to dairy production under this program is $1,077,490.

G. Quality Samples Program (Budget Code 12-4336-0-3-999.00.08)[233]

(a) Program Description

This program encourages the development and expansion of export markets for U.S. agricultural commodities by assisting U.S. entities provide commodity samples to potential foreign importers. The program objective is to demonstrate the high quality of U.S. agricultural commodities and products. Participants will procure samples, export the samples, provide any technical assistance necessary to facilitate the successful use of samples. Participants may be reimbursed for the cost of the sample purchase price and the cost of transporting the sample from the U.S. to the foreign port (further transportation costs are not reimbursable). For 2008, $1 million was available for funding under this program.[234]

(b) WTO Consistency

The program reduces the cost relating to promotion and development of new export markets for U.S. products and, on that basis, provides support to U.S. agricultural exports. Arguably, as the program would constitute general marketing and promotion services for purposes of Annex 2(2)(f) to the Agreement on Agriculture, expenditures under this program would not constitute part of the U.S. AMS and would not be subject to U.S. reduction commitments. However, this is an export subsidy and Annex 2(2)(f) may not be relevant.

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[233] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 109
[234] Quality Samples Program, Notice of Funds Availability for the Quality Samples Program, FASOnline

(c) Program Level

The FY 2011 Budget reports the following funding on account of this program:[235]

2009 (Actual)	$1,000,000
2010 (Estimate)	$2,000,000
2011 (Estimate)	$2,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total funding provided under this program for 2009 was set at $1,000,000. Therefore, the amount allocated to dairy production under this program is $107,000.

235 Department of Agriculture, *The Budget for Fiscal Year 2010, pg 112*

H. Dairy Export Incentive Program (DEIP) (Budget Code 12-4336-0-3-999.00.03)[236]

(a) Program Description

The Dairy Export Incentive Program (DEIP) is an export subsidy program operated by the U.S. Department of Agriculture that helps U.S. exporters gain access to foreign markets by providing "bonuses" on export sales. Eligible commodities include milk powder, butterfat, cheddar, mozzarella, gouda, feta, cream and processed American cheeses.[237] The DEIP was extended to 2007 by the *Farm Security and Rural Investment Act of 2002.*

The USDA Economic Research Service (ERS) describes the DEIP as follows,

> "The **Dairy Export Incentive Program (DEIP)** pays cash bonuses that allow dairy product exporters to buy USA products and sell them abroad when international prices are below domestic prices. DEIP removes products from the domestic market, helps develop export markets, and has played an important role in milk price support. The DEIP quantities and dollar amounts are subject to World Trade Organization restrictions under the Uruguay Round Agreement on Agriculture."[238]

The USDA ERS Glossary of Policy Terms is more categorical, referring to DEIP as, "A program that offers subsidies to exporters of U.S. dairy products based on the volume of exports."[239]

The USDA Foreign Agriculture Service (FAS) describes the DEIP as follows,

> "The Dairy Export Incentive Program (DEIP) helps exporters of USA dairy products meet prevailing world prices for targeted dairy products and destinations. Under the program, the USA Department of Agriculture pays case to exporters as bonuses, allowing them to sell certain U.S. dairy products at prices lower than the exporter's costs of acquiring them. The major objective of the program is to develop export markets for

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[236] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 112
[237] FASOnline, Q&A: The Dairy Export Incentive Program
[238] ERS Analysis, Dairy Programs, Analysis of Selected Provisions of the Farm Security and Rural Investment Act of 2002
[239] ERS Farm Policy, Glossary of Policy Terms, Farm Security and Rural Investment Act of 2002 Summary

> dairy products where U.S. products are not competitive because of the presence of subsidized products from other countries."[240]

The DEIP program supports export sales by providing a subsidy, referred to as a bonus, to exporters. Exporters negotiate contracts for the export sale of dairy products. These contracts may be made contingent on receiving DEIP support. The prospective exporter submits a bid to USDA requesting a bonus to allow the sale to take place. USDA then reviews the bid submitted by the U.S. exporter to determine whether or not it should provide a bonus.

USDA provides the bonus to the U.S. exporter, in cash. The bonus payment is calculated by the Commodity Credit Corporation (CCC), which multiplies the bonus specified in the agreement by the net quantity of the commodity exported. In most cases, once an exporter furnishes USDA with evidence that the specified commodity has been exported to the target destination under the terms of the agreement, the exporter can request payment of the bonus.[241]

Like the Export Enhancement Program, DEIP allocations are provided for exports of specific quantities of specific products to specific markets.

USDA explains that estimates of the quantity of dairy products to be exported under DEIP and associated expenditures were formulated under the maximum allowable expenditure and quantity levels specified in the U.S. schedule to the WTO Agreement on Agriculture, which also limit subsidies on a product by product basis.[242]

(b) WTO Consistency

There is no dispute that the DEIP provides an export subsidy. The "bonus" provided under the program, in the form of a cash payment to the exporter, is provided so that the exporter can compete in foreign markets by selling U.S. dairy products at prices below the acquisition cost of the dairy product. Furthermore, contracts negotiated by U.S. exporters for the purchase and sale

[240] FASOnline, Dairy Export Incentive Program
[241] FASOnline, Q&A: The Dairy Export Incentive Program, Tab 4
[242] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 112

of U.S. dairy products into foreign markets can be made contingent on receipt of DEIP "bonuses". In these circumstances, the DEIP bonus is an export subsidy on the basis that it is a financial contribution, in the form of a direct cash payment, by government to the U.S. exporter, which confers a benefit on that exporter and which is made contingent on export performance.

DEIP is accounted for under the United States WTO export subsidy commitments.

(c) Program Level

The FY 2011 Budget reports DEIP program levels as follows:[243]

2009	(Enacted)	$116,600,000
2010	(Estimate)	$116,600,000
2011	(Budget)	$116,600,000

However, current baseline projections assume that DEIP will not exceed $116,600,000 annually during 2002-2012.[244] This means that DEIP payments and funding can increase should market conditions so require.

(d) Allocation to Dairy

Funds expended under DEIP are used for the benefit of U.S. dairy production, therefore 100% of the program expenditures are allocated to U.S. dairy production. Thus, in 2009, all $116,600,000 of DEIP funding should be allocated to dairy producers.

243 *FY 2011 Budget Summary*, U.S. Department of Agriculture, p 43
244 Department of Agriculture, *The Budget of Fiscal Year 2011*, pg 113

I. Trade Adjustment Assistance for Farmers (Budget Code 12-1406-0-1-351)[245]

(a) Program Description[246]

The **American Recovery and Reinvestment Act (ARRA) of 2009** reauthorized and modified the Trade Adjustment Assistance (TAA) for Farmers program. The TAA for Farmers program helps producers of raw agricultural commodities and fishermen adjust to a changing economic environment associated with import competition through technical assistance and cash benefits. If you are a producer of a commodity who has recently suffered a greater than 15% decrease in the national average price, the quantity of production, value of production, or cash receipts compared to the average of the three preceding marketing years, and imports contributed importantly to this decline, then you may be eligible to receive free information, technical assistance, and cash payments to develop and implement Business Adjustment Plans from the TAA for Farmers program.

(b) WTO Consistency

This is a domestic support program that provides technical assistance and direct payments to producers who have been adversely affected by import competition, as defined by the Secretary of Agriculture. While the support provided would constitute a domestic subsidy, it is not clear that the support would be included in the U.S. AMS.

The program provides two distinct types of support. The free technical assistance would likely be excluded from the U.S. AMS on the basis that it falls within the class of General Services excluded from the AMS and reduction commitments pursuant to Annex 2(2) of the Agreement on Agriculture. However, it is necessary to consider these programs on a case-by-case basis.

245 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 168
246 USDA Foreign Agricultural Service, FAS Administered Programs, http://www.fas.usda.gov/ITP/TAA/taa.asp

The cash benefits would constitute direct payments to producers and would not be excluded from the U.S. AMS. Annex 2(5) to the Agreement on Agriculture provides that direct payments can be exempt from reduction commitments if they meet the requirements of Annex 2(1) and Annex 2(6). Annex 2(1) allows domestic support that has little or no trade distorting effects or effects on production to be exempted from reduction commitments.

Annex 2(6), which sets out the qualifications for decoupled income support, allows direct payments to be made on the basis of clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period. However, Annex 2(6)(c) provides that the amount of payments shall not be related to or based on international or domestic prices. In fact, none of the criteria set out in Annex 2(6) appear to permit the U.S. to exempt direct payments made to counteract the effect of import competition. Nor does the program appear to fit Annex 2(9) or Annex 2(10), but Annex 2(11) could be examined. Indeed, these might be considered to be import replacement subsidies which are prohibited under Article 3.1(b) of the Subsidies and Countervailing Measures Agreement.

Therefore, whether or not the payments at issue would have trade or production effects, Annex 2(6) would not allow them to be exempted from the U.S. AMS and domestic support reduction commitments.

(c) Program Level

The FY 2011 Budget reports actual and estimated expenditures as follows:[247]

FY 2011 Budget

2009 (Actual)	$90,000,000
2010 (Estimate)	$90,000,000
2011 (Budget)	$23,000,000

247 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 168

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Trade and Adjustment Assistance (TAA) for Farmers was reauthorized and modified by the American Recovery and Reinvestment Act of 2009 as established by Subtitle C of Title I of the Trade Act of 2002, which amended the Trade Act of 1974. The statute authorizes appropriations to the Department of Agriculture not to exceed \$90 million each year for 2009 and for 2010 and \$22.5 million for the period beginning October 1, 2010 and ending December 31, 2010 to carry out the program.[248]

Total expenditures under this program were \$90,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is \$9,063,000.

[248] Ibid., pg 109

IV. International Food Assistance

The United States provides international food assistance under a number of programs administered by the Foreign Agricultural Service and supported by the Commodity Credit Corporation. Although he United States describes these as donation programs, in fact they have been used to remove surplus product from the U.S. market and as a means of supporting U.S. producers and prices.

The FY 2011 Budget Summary for the U.S. Department of Agriculture reports the following program level expenditures on account of U.S. international Foreign Food Assistance:[249]

2009	(Enacted)	$312,000,000
2010	(Budget)	$175,000,000
2011	(Budget)	$171,000,000 [250]

U.S. Foreign Food Assistance provides important support to U.S. agricultural producers. This support is not provided exclusively to dairy producers, therefore, the amount of support to dairy provided through these expenditures is determined on the basis of dairy's share of total U.S. agricultural production.

We note however that USDA specifically mentioned in the FY 2010 Budget:

> "Commodities that are acquired by the CCC in the normal course of its domestic support operations will be available for donation. The current CCC inventory has nonfat dry milk available for donation."[251]

In 2009, dairy represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $312,000,000 expended on Foreign Food Assistance in 2009, $33,384,000 is allocated to

249 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 107
250 *Ibid.*, pg 136
251 Department of Agriculture, *The Budget for Fiscal Year 2010*, pg 114

support to dairy production. However, it is likely that because dairy products are an important CCC commodity, this methodology may understate the benefits to dairy producers.

PART I

A. Public Law 480 (P.L. 480) also known as Food for Peace Act[252]

(a) Program Description

U.S. support for overseas food aid was formalized in the Agricultural Trade Development and assistance Act of 1954, also known as P.L. 480 Food for Peace.[253] P.L. 480 was developed in line with the U.S. Policy of using its agricultural productivity to enhance the food security of developing countries and the determination of the importing country's capacity of improving its food security.

P.L. 480 consists of three food aid titles:

> **Title I** provides for sales of U.S. agricultural commodities on concessional credit terms to governments and private entities in developing countries. In allocating assistance under the Title I program, priority is given to agreements that provide for the export of U.S. agricultural commodities to those developing countries which have demonstrated the potential to become commercial markets, are undertaking measures to improve their food security and agricultural development, and demonstrate the greatest need for food. Under Title I, the U.S. Agriculture Secretary determines the value allocated to partner-countries of the U.S., and with the recipient government, the commodity involved. Payment for the commodities is expected over 30 years with a grace period of five years.[254] The U.S. Department of Agriculture (USDA) administers Title I.

> **Title II** involves donations to governments, through public or private agencies, to meet humanitarian food needs of recipient governments. The majority of assistance is provided through private voluntary organizations, cooperatives, or international organizations, primarily the World Food Program of the United Nations. In the case of donations made in response to emergency needs, Title II assistance can also be provided through

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252 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 169
253 USAID: http://www.usaid.gov/pubs/cp2000/pl480ffp.html
254 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 169

government-to-government agreements. The Foreign Agricultural Service (FAS), under the U.S. Agency for International Development (USAID), administers Title II.

Title III involves government-to-government grants aimed at supporting economic development needs of least developed countries. The Foreign Agricultural Service (FAS), under the U.S. Agency for International Development (USAID), administers Title III.

In recent years, this title has been inactive.[255]

(b) WTO Consistency

International food aid is generally provided in the form of a grant or at below market prices. The provision of international food aid fully in grant form or on terms no less concessional than those provided for in the Food Aid Convention is specifically addressed in Article 10(4)(c) of the Agreement on Agriculture. Pursuant to Article 10(4), so long as donors of international food aid ensure that the food aid is not tied directly or indirectly to commercial exports, is carried out in accordance with the Food and Agriculture Organization's (FAO) "Principles of Surplus Disposal and Consultative Obligations" or, if appropriate, the Usual Marketing Requirements, and if the support is provided in grant form or on concessional terms, the provision of international food aid does not circumvent export subsidy commitments. However, if food aid does not meet these conditions, it will constitute an export subsidy for purposes of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

Consequently, it is possible to provide food aid in a manner that either violates or conforms to WTO obligations. Indeed, U.S. food aid practices have been criticized by a number of participants in the WTO Doha Development Round negotiations.[256] Whether the provision of

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255 www.fas.usda.gov./excredits/foodaid/pl480/pl480.asp

256 *Inside U.S. Trade*, May 21, 2004, "Commodity Groups Wrestling with Terms for Export Credits, Food Aid"
Inside U.S. Trade, June 18, 2004, "Grassley Goodlatte Sound Warnings on Food Aid Restrictions"
Inside U.S. Trade, July 2, 2004, "U.S. Officials Signal Food Aid Safe For Now in WTO Talks".
Inside U.S. Trade, July 23, 2004, "U.S. Looking to Change WTO Draft as Language Threatens U.S. Food Aid"

international food aid violates the export subsidy commitments in the Agreement on Agriculture must be determined on a case-by-case basis.

(c) Program Level

The FY 2010 Budget reports the following program level for P.L. 480 Title I Credits and Title II Grants:[257]

2009	(Actual)	$2,321,000,000
2010	(Estimate)	$1,690,000,000
2011	(Estimate)	$1,690,000,000 [258]

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers but nonfat dry milk is an important component of CCC inventory. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The total program levels under this program were $2,321,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $248,347,000.

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257 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 169

258 Ibid.

B. Bill Emerson Humanitarian Trust

(a) Program Description

The Bill Emerson Humanitarian Trust is a commodity reserve designed to ensure that the United States can meet its international food aid commitments.

(b) WTO Consistency

International food aid is generally provided in the form of a grant or at below market prices. The provision of international food aid fully in grant form or on terms no less concessional than those provided for in the Food Aid Convention is specifically addressed in Article 10(4)(c) of the Agreement on Agriculture. Pursuant to Article 10(4), so long as donors of international food aid ensure that the food aid is not tied directly or indirectly to commercial exports, is carried out in accordance with the Food and Agriculture Organization's "Principles of Surplus Disposal and Consultative Obligations" or, if appropriate, the Usual Marketing Requirements, and if the support is provided in grant form or on concessional terms, the provision of international food aid does not circumvent export subsidy commitments. Unless food aid meets these conditions, it will constitute an export subsidy for purposes of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

Consequently, it is possible to provide food aid in a manner that violates or conforms to WTO obligations. Indeed, U.S. food aid practices have been criticized by a number of participants in the WTO Doha Development Round negotiations. Whether the provision of international food aid violates the export subsidy commitments in the Agreement on Agriculture must be determined on a case-by-case basis.

(c) Program Level

The FY 2011 Budget reports the following obligations on account of this program:[259]

2009 (Actual)	$7,000,000
2010 (Estimate)	----[260]
2011 (Estimate)	----[261]

d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. As dairy products are not specifically included, the benefits to dairy farmers can only be indirect. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

Total expenditures under this program were $7,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $749,000.

[259] Ibid.
[260] Assets of the trust can be released any time the Administrator of the U.S. Agency for International Development determines that P.L. 480 Title II funding for emergency needs is inadequate to meet these needs in any fiscal year.
[261] Ibid.

C. Food for Progress

(a) Program Description

The Food for Progress Act of 1985 authorizes U.S. agricultural commodities to be provided to developing countries and emerging democracies that have made commitments to introduce and expand free enterprise in their agricultural sector. Food for Progress commodities are provided on a donation basis to foreign governments, private voluntary agencies, non-profit organizations, cooperatives, or intergovernmental organizations.[262] Agreements may provide for the commodities to be supplied on either long-term credit or grant terms. P.L. 480 Title I funds may be used for the procurement and transportation costs of the commodities. Alternatively, either CCC-owned commodities may be made available or CCC may purchase commodities not in its inventory, with transportation and other non-commodity expenses paid with CCC funds subject to a limitation of $55 million.[263]

(b) WTO Consistency

International food aid is generally provided in the form of a grant or at below market prices. The provision of international food aid fully in grant form or on terms no less concessional than those provided for in the Food Aid Convention is specifically addressed in Article 10(4)(c) of the Agreement on Agriculture. Pursuant to Article 10(4), so long as donors of international food aid ensure that the food aid is not tied directly or indirectly to commercial exports, is carried out in accordance with the Food and Agriculture Organization's "Principles of Surplus Disposal and Consultative Obligations" or, if appropriate, the Usual Marketing Requirements, and if the support is provided in grant form or on concessional terms, the provision of international food aid does not circumvent export subsidy commitments. Unless food aid meets these conditions, it will constitute an export subsidy for purposes of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

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262 FAS: http://www.fas.usda.gov/excredits/FoodAid/FFP/foodforprogress.asp

263 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 113

Consequently, it is possible to provide food aid in a manner that violates or conforms to WTO obligations. Indeed, U.S. food aid practices have been criticized by a number of participants in the WTO Doha Development Round negotiations. Whether the provision of international food aid violates the export subsidy commitments in the Agreement on Agriculture must be determined on a case-by-case basis.

(c) Program Level

The FY 2010 Budget reports the following program levels for the Food for Progress Program funded by P.L. 480 Title I and by the Commodity Credit Corporation:

> 2009 (Actual) CCC Funded $216,000,000 + Title 1 Funded (Budget Authority) $22,000,000
> Total = $238,000,000
>
> 2010 (Estimate) CCC Funded $150,000,000 + Title 1 Funded (Budget Authority) 0
> Total = $150,000,000
>
> 2011 (Estimate) CCC Funded $146,000,000 + Title 1 Funded (Budget Authority) 0
> = $146,000,000[264]

(d) Allocation to Dairy

While nonfat dry milk is an important inventory commodity for the CCC, this program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

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264 Ibid., pg 169

PART I

The total program level under this program is $238,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $25,466,000.

D. McGovern-Dole International Food for Education and Child Nutrition Program

(a) Program Description

The Farm Security and Rural Investment Act of 2002 authorizes the new McGovern-Dole International Food for Education and Child Nutrition Program (IFEP). This program facilitates the donation of U.S. agricultural commodities and associated financial and technical assistance to carry out preschool and school feeding programs. Maternal, infant, and child nutrition programs are also authorized under the program. The main objective of the IFEP is to improve food security, reduce the incidence of hunger and malnutrition, and improve literacy and primary education. The program will be administered by FAS.

(b) WTO Consistency

International food aid is generally provided in the form of a grant or at below market prices. The provision of international food aid fully in grant form or on terms no less concessional than those provided for in the Food Aid Convention is specifically addressed in Article 10(4)(c) of the Agreement on Agriculture. Pursuant to Article 10(4), so long as donors of international food aid ensure that the food aid is not tied directly or indirectly to commercial exports, is carried out in accordance with the Food and Agriculture Organization's "Principles of Surplus Disposal and Consultative Obligations" or, if appropriate, the Usual Marketing Requirements, and if the support is provided in grant form or on concessional terms, the provision of international food aid does not circumvent export subsidy commitments. Unless food aid meets these conditions, it will constitute an export subsidy for purposes of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

Consequently, it is possible to provide food aid in a manner that violates or conforms to WTO obligations. Indeed, as noted earlier in this report, U.S. food aid activities have been criticized by a number of participants in the WTO Doha Development Round negotiations. Whether the provision of international food aid violates the export subsidy commitments in the Agreement on Agriculture must be determined on a case-by-case basis.

(c) Program Level

The FY 2011 Budget reports the following as total budgetary authority for this program:

2009 (Actual)	$184,000,000[265]
2010 (Estimate)	$210,000,000[266]
2011 (Estimate)	$210,000,000[267]

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

Total program level was $184,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $19,688,000.

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265 Ibid., pg 170
266 Ibid.
267 Ibid.

E. Section 416(b) Donations

(a) Program Description

Section 416(b) of the Agricultural Act of 1949 authorizes the donation of surplus CCC-owned commodities in order to carry out programs of assistance in developing and friendly countries. Commodities that are eligible for donation include those in inventory that have been acquired by CCC through price support operations, or are otherwise acquired by CCC in the normal course of its operations and which are surplus to domestic program requirements. The commodities are made available for donation through agreements with foreign governments, private voluntary organizations and cooperatives, and the World Food Program.[268]

The budget assumes that commodities acquired by CCC in the normal course of its domestic support operations will be available for donation under section 416(b) authority. The section 416(b) program is currently not active as there are no CCC-owned commodities available at this time.

(b) WTO Consistency

International food aid is generally provided in the form of a grant or at below market prices. The provision of international food aid fully in grant form or on terms no less concessional than those provided for in the Food Aid Convention is specifically addressed in Article 10(4)(c) of the Agreement on Agriculture. Pursuant to Article 10(4), so long as donors of international food aid ensure that the food aid is not tied directly or indirectly to commercial exports, is carried out in accordance with the Food and Agriculture Organization's "Principles of Surplus Disposal and Consultative Obligations" or, if appropriate, the Usual Marketing Requirements, and if the support is provided in grant form or on concessional terms, the provision of international food aid does not circumvent export subsidy commitments. If food aid does not meet these

268 FAS: http://www.fas.usda.gov/excredits/FoodAid/416b/section416b.html

conditions, it will constitute an export subsidy for purposes of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

Consequently, it is possible to provide food aid in a manner that violates or conforms to WTO obligations. Indeed, as noted earlier in this report, U.S. food aid activities have been criticized by a number of participants in the WTO Doha Development Round negotiations. Whether the provision of international food aid violates the export subsidy commitments in the Agreement on Agriculture must be determined on a case-by-case basis.

(c) Program Level

The FY 2010 reports the following program levels for this program:

2009 (Actual)	\$216,000,000[269]
2010 (Estimate)	\$150,000,000[270]
2011 (Estimate)	\$146,000,000[271]

(d) Allocation to Dairy

Based on the total program level, 216,000,000, dairy's share based on it share of total U.S. agricultural production is \$23,112,000.

269 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 169
270 Ibid.
271 Ibid.

V. Agricultural Marketing Service

The Agricultural Marketing Service programs are used to support the sale of U.S. agricultural products in domestic and international markets. Programs administered by the Agricultural Marketing Service are delivered by the Service alone and in cooperation with state governments and include:

- (i) Marketing Services
- (ii) Payments to States
- (iii) Section 32 Fund Programs
- (iv) Regulation of Perishable Commodity Marketing
- (v) Commodity Grading Services

These are discussed individually in the following sections.

The FY 2011 Budget Summary reports the following as the program levels for Agricultural Marketing Service programs:

2009 (Enacted)	$1,312,000,000[272]
2010 (Budget)	$1,398,000,000[273]
2011 (Budget)	$1,335,000,000[274]

The amount of support provided to dairy through these expenditures can be determined on the basis of dairy's proportionate share of total U.S. agricultural production. In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $1,312,000,000 expended in 2009, $140,384,000 can be allocated as to dairy production.

[272] *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 104
[273] Ibid.
[274] Ibid.

PART I

A. Marketing Services (Budget Code 12-2500-0-1-352)[275]

(a) Program Description

Agricultural Marketing Service activities assist producers and handlers of agricultural commodities by providing a variety of marketing-related services. These services include:

Market news service. – The market news program provides the agricultural community with information pertaining to the movement of agricultural products. This nationwide service provides daily reports on the supply, demand, and price of over 700 commodities on domestic and foreign markets.

Inspection, grading and standardization. – Nationally uniform standards of quality for agricultural products are established and applied to specific lots of products to: promote confidence between buyers and sellers; reduce hazards in marketing due to misunderstandings and disputes arising from the use of nonstandard descriptions; and encourage better preparation of uniform quality products for market. Grading services are provided on request for cotton and tobacco.

Quarterly inspection of egg handlers and hatcheries is conducted to ensure the proper disposition of shell eggs unfit for human consumption.[276]

(b) WTO Consistency

The marketing services administered by the Agricultural Marketing Service provide important support to U.S. agricultural producers. Arguably the U.S. could claim the support would not be included in the U.S. AMS and would be exempt from reduction commitments on the basis that these are general government services pursuant to Annex 2(2) to the Agreement on Agriculture.

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275 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 93

276 Ibid., pg 137

However, the support does promote exports and is trade distorting. It takes on expenses for the farm sector which would fall to business in other sectors.

(c) Program Level

The FY 2011 Budget Summary reports the following resources available for the marketing services provided by the Agriculture Marketing Service:

2009	(Actual)	$300,000,000[277]
2010	(Budget)	$300,000,000[278]
2011	(Budget)	$320,000,000[279]

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Therefore, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total resources available under this program were $300,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $32,100,000.

277 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 137
278 Ibid.
279 Ibid.

B. **Payments to States** (Budget Code 12-2501-0-1-352)[280]

(a) Program Description

Under this program, the Agricultural Marketing Service assists governments of states and possessions on a matching funds basis in the planning and design of marketing facilities, processes, and methods in cooperation with State and local governments, universities, farmer groups, and other segments of the U.S. food industry.[281]

Grants are made on a matching fund basis to State departments of agriculture to carry out specifically approved value-added programs designed to spotlight local marketing initiatives and enhance marketing efficiency. Under this activity, specialists work with farmers, marketing firms, and other agencies in solving marketing problems and in using research results.[282]

(b) WTO Consistency

This program provides support to U.S. agricultural producers through state administered programs. The support provided through these payments would constitute domestic support, but would not be included in the U.S. AMS and would be exempt from reduction commitments because these would be likely deemed to be general government services, which is permissible funding pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget reports the following as the program level for the Payments to States program:[283]

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280 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 95
281 Ibid.
282 Ibid., pg 137
283 Ibid., pg 95

2009	(Enacted)	$2,000,000
2010	(Budget)	$2,000,000
2011	(Budget)	$3,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Therefore, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total activity under this program is $2,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $214,000.

C. Section 32 Funds (Funds for Strengthening Markets, Income and Supply)
(Budget Code 12-5209-0-2-605)[284]

(a) Program Description

Section 32 is a permanent appropriation that, since 1935, has earmarked the equivalent of 30% of annual customs receipts to support the U.S. agriculture sector.

The purpose of the Section 32 program is three-fold: to encourage the exportation of agricultural commodities and products, to encourage domestic consumption of agricultural products by diverting them, and to re-establish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption.[285]

(b) WTO Consistency

The Section 32 program is described as a price support program for the benefit of U.S. agricultural producers.[286] Thus, the payments provided under this program would constitute domestic support that is not exempt from reduction commitments. Pursuant to Annex 2(1)(b) of the WTO Agreement on Agriculture, domestic support that has the effect of providing price support is to be included in domestic support and be subject to reduction commitments. Thus, the support provided under this program should be included in the U.S. AMS and be subject to reduction commitments.

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284 Ibid., pg 96
285 Ibid., pg 95
286 *FY 2005 Budget Summary*, U.S. Department of Agriculture, pg 85

(c) Program Level

The FY 2011 Budget Summary reports the following as total program levels for the Section 32 Funds program:

2009 (Enacted)	$1,012,000,000[287]
2010 (Budget)	$1,098,000,000[288]
2011 (Budget)	$1,015,000,000[289]

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Therefore, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The program level under this program was $1,012,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $108,284,000.

287 Ibid., pg 137
288 Ibid.
289 Ibid.

D. Perishable Agricultural Commodities Act (Budget Code 12-5070-0-2-352)[290]

(a) Program Description

The Perishable Agricultural Commodities Act (PACA) is concerned with trading practices in the marketing of fresh and frozen fruits and vegetables and prohibits unfair and fraudulent practices and provides a means of enforcing contracts. Anyone buying or selling commercial quantities of fruit and vegetables must be licensed by the U.S. Department of Agriculture. Through this program, USDA seeks to regulate the interstate and foreign sale of fruits and vegetables.[291]

(b) WTO Consistency

This program provides market support to U.S. agricultural producers. While this program provides domestic support, it would not likely be included in the U.S. AMS and would be exempt from reduction commitments because the services provided are general government services which are exempt pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following as program levels for the Perishable Agricultural Commodities Act Program:[292]

2009 (Estimate)	$7,000,000
2010 (Estimate)	$7,000,000
2011 (Estimate)	$7,000,000

This program is funded by user fees.

290 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 95
291 www.ams.usda.gov, October 19, 2004
292 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 104

PART I

(d) Allocation to Dairy

This program by definition does not provide benefits to dairy producers and there is no net cost to government. Therefore, there are no benefits to be allocated to dairy products.

E. **Commodity Grading Services** (Budget Code 12-8015-0-7-352)[293]

(a) Program Description

Commodity inspection and grading is provided through a cooperative agreement between the U.S. Department of Agriculture and the Department of Agriculture of individual states. Covered commodities include dairy products, fresh and processed fruits and vegetables, meat and meat products, poultry, eggs, tobacco and cotton.

Fruit, vegetable, and peanut grading and inspection services are provided at shipping point, receiving locations, and terminal markets to specify grade, count, weight, and other factors important in quality determination.[294] Products are also inspected and certified at export warehouses for international shipments. The Inspection Service works with producers, brokers, receivers, food processors, export marketers, and other related avenues of product movement to inspect and certify the quality and cleanliness as the product moves through normal marketing channels. AMS recovers the cost of these services through user fees. Based on information available to us, there does not appear to be a net cost to the U.S. Treasury.

(b) WTO Consistency

The grading program provides support to U.S. agricultural producers, including dairy products. However, since this program is funded by user fees, it is not a subsidy and WTO consistency is not an issue.

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293 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 97
294 www.scda.state.sc.us, October 19, 2004

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the Commodity Grading Service program: [295]

2009	(Enacted)	$150,000,000
2010	(Estimate)	$140,000,000
2011	(Estimate)	$148,000,000

These services were largely or wholly by user fees. Therefore, we have that estimated there is no net cost to government.

(d) Allocation to Dairy

While this program, by its coverage, is specifically directed, *inter alia*, at dairy products, there are no benefits to be allocated as this program is funded by user fees.

[295] *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 104

F. Milk Market Orders Assessment Fund (Budget Code 12-8412-0-8-351)[296]

(a) Program Description

The Secretary of Agriculture issues Federal Milk Marketing Orders to establish the minimum prices that handlers are required to pay for milk purchased from producers. The Secretary has reduced the number of milk marketing orders from 31 to 11, consistent with the 1996 Farm Bill authorities.[297]

(b) WTO Consistency

Milk Marketing Orders are issued to establish minimum prices for milk purchased by handlers from producers. Consequently, as these orders result in producer price support, the funds expended to administer this program should be included in domestic support and be subject to reduction commitments. We make no estimate of the price support effects as there is no information available.

(c) Program Level

The FY 2011 Budget reports the following as the new (gross) budget authorities to support this program:[298]

2009	(Actual)	$54,000,000
2010	(Estimate)	$56,000,000
2011	(Estimate)	$60,000,000

296 Department of Agriculture, *The Budget for Fiscal Year 2010*, pg 100
297 Ibid.
298 Ibid., pg 98

(d) Allocation to Dairy

The Milk Marketing Orders program is intended to benefit U.S. dairy producers. Accordingly, 100% of the $59,000,000 in budget authority for administering this program in 2009 are allocated to dairy production.

As noted above, we do not have the information necessary to calculate any price support benefits which may be included in AMS Pursuant to Annex 3(8) of the Agreement on Agriculture. Therefore the allocation of benefits to dairy producers under this program appears to be understated but is unmeasurable based on information available to us.

VI. Conservation Programs

Conservation programs, administered by the Natural Resources Conservation Service (NRCS), are intended to promote conservation and sustainable use of natural resources and to sustain production of all goods and services demanded from the national forests. The NRCS supports the USDA goals of increasing economic activities and quality of rural life and of protecting and enhancing the natural resource base.

The conservation programs administered by the Natural Resources Conservation Service can be broadly divided into the following headings:

(i) Conservation Operations
(ii) Watershed Programs
(iii) Resource Conservation and Development
(iv) Farm Security and Rural Investment Programs

The FY 2011 Budget Summary reports the following as total program level for all programs administered by the Natural Resources Conservation Service, including programs funded by the Commodity Credit Corporation:[299]

2009 (Enacted)	$3,471,000,000
2010 (Budget)	$3,982,000,000
2011 (Budget)	$3,993,000,000

The support provided through these programs is not provided exclusively for the benefit of dairy producers, therefore, the total value of these programs to dairy producers is determined on the basis of dairy's share of total U.S. agricultural production. In 2009 dairy represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $3,471,000,000 expended on

299 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 134

conservation programs administered by the Natural Resources Conservation Service in 2009, $371,397,000 can be allocated as support for dairy production.

PART I

A. Conservation Reserve Program (CRP) (Budget Code 12-4336-0-3-999.0036)[300]

(a) Program Description

The Conservation Reserve Program is USDA's largest conservation/environmental program. The purpose of the Conservation Reserve Program is to assist farm owners and operators in conserving and improving soil, water, air, and wildlife resources by retiring environmentally sensitive land from agricultural production and keeping it under long-term resource-conserving cover. Participants enroll acreage for periods of 10 to 15 years in return for annual rental payments and cost-share and technical assistance for installing approved conservation practices. The 2008 Farm Bill re-authorized CRP through September 30, 2012 and permits CRP to enroll up to 32 million acres at any one time beginning October 1, 2009.

(b) WTO Consistency

The Conservation Reserve Program provides support to dairy producers. However, because it appears that it has little or no trade-distorting effect, pursuant to the exclusions in Annex 2(1) to the Agreement on Agriculture and on the basis that it is a structural adjustment program designed to take land out of agricultural production, this support need not be included in the U.S. AMS.

(c) Program Level

The FY 2011 Summary reports the following as total budgetary authority available to support the obligations under this program:[301]

2009	(Enacted)	$1,916,000,000
2010	(Estimate)	$2,000,000,000
2011	(Budget)	$1,989,000,000

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300 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 109
301 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 30

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total obligations under this program were $1,916,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $205,012,000. Please note that this sub-account is included in the Commodity Credit Corporation Account (Budget Code 12-4336-0-3-999.00.37)

B. Emergency Conservation Program[302] (Budget Code 12-3316-0-1-453)[303]

(a) Program Description

The Emergency Conservation Program provides emergency funding to restore farmland damaged by natural disaster and in carrying out emergency water conservation measures during periods of severe drought. The objective is to restore farmland to productive use. In particular, the program is intended to address problems that, if left untreated, would impair or endanger land, materially affect its productive capacity and would require Federal assistance for rehabilitation.

(b) WTO Consistency

This program clearly benefits U.S. farmers, including dairy farmers. However, support provided under the Emergency Conservation Program arguably should not be included in the U.S. AMS and should be exempt from domestic support reduction commitments on the basis that these are payments by government for relief from natural disasters as envisaged in Annex 2(8) to the Agreement on Agriculture.

(c) Program Level

The FY 2010 Budget reports the following as total budgetary authority available to support the obligations under this program:[304]

2009	(Actual)	$71,000,000
2010	(Estimate)	$95,000,000
2011	(Estimate)	$85,000,000

302 USDA Fact Sheet, Release No. fs0199.04, pg 2 of 7
303 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 104
304 Ibid.

(d) Allocation to Dairy

While this program is exempt from AMS, it nonetheless provides support to farmers in the U.S. It does not provide benefits that could be claimed to be exclusive to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The budgetary authority under this program was $71,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $7,597,000.

C. Environmental Quality Incentives Program[305] (Budget Code 12-1004-0-1-302.00.02)[306]

(a) Program Description

This program provides cost-shared assistance and technical help to farmers and ranchers that voluntarily seek to install or implement structural and management conservation practices on agricultural land. These payments help farmers and ranchers implement conservation to improve animal waste management, irrigation water management, grazing land, soil erosion and sediment control, and other resource concerns.

(b) WTO Consistency

It may be argued that support provided under the Environmental Quality Incentives Program (EQIP) should not be included in the U.S. AMS and should be exempt from domestic support reduction commitments on the basis that these are payments by government made under an environmental program for purposes of Annex 2(12) to the Agreement on Agriculture. However, each case must be judged on its own merits. Annex 2(12)b provides that the contributions should be limited to costs of compliance with government programmes. This criterion would not appear to be met if the initiatives are voluntary.

(c) Program Level

The FY 2011 Budget Summary reports the following as total program level for EQIP:[307]

2009	(Enacted)	$1,067,000,000
2010	(Estimate)	$1,800,000,000
2011	(Estimate)	$1,208,000,000

305 USDA Fact Sheet, Release No. fs0199.04, pg 3 of 7
306 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 124
307 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The program level in FY 2009 was $1,067,000,000 for this program. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $114,169,000. Given the focus of this program on animal waste, irrigation water management (cows consume a lot of water) and conservation of grazing land, this would appear to be a very conservative allocation.

D. Conservation Operations (Budget Code 12-1000-0-1-302)[308]

(a) Program Description

Conservation Operations which includes Conservation Technical Assistance Program, assists locally-led voluntary conservation, improve and sustain natural resources. Technical assistance is for planning and implementing natural resource solutions to reduce erosion, improve soil health, *improve water quantity and quality*, improve and conserve wetlands, enhance fish and wildlife habitat, improve air quality, *improve pasture and range health*, reduce upstream flooding, improve woodlands, and address other natural resource issues. A primary objective of the Program is to *maintain agricultural productivity and water quality*.

Conservation Technical Assistance comprises the largest portion of the Conservation Operations program, accounting for $797 million of the $924 million budget for FY 2011.[309]

(b) WTO Consistency

It may be argued that support provided under Conservation Operations should not be included in the U.S. AMS and should be exempt from domestic support reduction commitments on the basis that these are payments by government to support conservation efforts for purposes of Annex 2(12) to the Agreement on Agriculture. However, Annex 2(12)b provides that such funding must be related to and not exceed the cost of compliance with government programs. This exclusion does not appear to extend to voluntary conservation which arguably are not required to "comply" with any government program.

308 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 124
309 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 87

(c) Program Level

The FY 2011 Budget reports the following as total budgetary authority available to support the obligations under this program:[310]

2009	(Enacted)	$853,000,000
2010	(Estimate)	$888,000,000
2011	(Estimate)	$924,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The budgetary authority under this program is $853,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $91,271,000.

310 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 123

E. Conservation Reserve Program Technical Assistance (CRP) (Budget 12-4336-0-3-999.00.52)[311]

(a) Program Description

The NRCS provides technical support including land eligibility determinations, conservation planning and practice implementation for the Conservation Reserve Program (CRP). The 2011 budget includes $147 million, an increase of $45 million over 2010, for CRP technical assistance. CRP is administered by FSA.

(b) WTO Consistency

Support provided under the CRP should not be included in the U.S. AMS and should be exempt from domestic support reduction commitments on the basis that these are payments by government on account of environmental programs for purposes of Annex 2(12) to the Agreement on Agriculture.

(c) Program Level and Allocation to Dairy

The FY 2011 Budget reports the 2009 program level for the Conservation Reserve Program Technical Assistance as $78,000,000.[312]

Assuming that dairy's share of the total value of U.S. agricultural production remains constant, it would be possible to determine the portion of support provided to this program that should be allocated to dairy producers. In 2009 dairy production represented 10.7% of the total value of U.S. agricultural production. If this proportion remains constant, then of the $78,000,000 budgeted program level, $8,346,000 would be allocated to dairy production.

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[311] Ibid., pg 109

[312] Ibid.

F. Agricultural Management Assistance (AMAP) (Budget Code 12-1004-0-1-302.00.10)[313]

(a) Program Description

This program provides cost-shared assistance to agricultural producers to address risk management concerns linked to water management, water quality and erosion control issues.

Support is available in not less than ten and not more than 16 states where participation in the Federal Crop Insurance program is historically low (Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia and Wyoming).[314]

The Agricultural Risk Protection Act of 2000 authorized CCC funding of $10 million for 2001 and subsequent years for the Agricultural Management Assistance Program (AMAP). AMAP provides cost shared assistance to producers in states in which Federal Crop Insurance Program participation as determined by the Secretary of Agriculture is historically low. The Secretary delegated authority to implement this program to the Natural Resources Conservation Service, Risk Management Agency, and the Agricultural Marketing Service. The 2008 Farm Bill increased funding to $15 million for 2008-2012 and increased to 16 the number of States eligible to participate.[315]

(b) WTO Consistency

Support provided under the Agricultural Management Assistance Program should be exempt from the U.S. AMS and domestic support reduction commitments. The Agricultural Management Assistance program is an environmental program that, pursuant to Annex 2(12) to

313 Ibid., pg 124
314 USDA Fact Sheet, Release No. fs0199.04, pg 4 of 7, AMA Fact Sheet, December 2008
315 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 114

the Agreement on Agriculture, appears to provide support which is exempt from domestic support reduction commitments.

(c) Program Level

The 2008 Farm Bill authorized CCC funding for this program to $15 million annually from 2008-2012.

(d) Allocation to Dairy

Support provided under the Agricultural Management Assistance program is not provided exclusively to dairy production. Dairy's share of the support provided through this program can be determined on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $15,000,000 obligated in active contracts under this program in 2009, $1,605,000 was allocated to support dairy production.

G. Conservation Security Program - (Budget Code 12-1004-0-1-302-00.07)[316] Conservation Stewardship Program - (Budget code 00.09 respectfully)[317]

(a) Program Description

Conservation Stewardship Program – The 2008 Farm Bill replaces the Conservation Security Program[318] with a new Conservation Stewardship Program which is distinguished from the old program in that it encourages participants to undertake new conservation activities in addition to maintaining and managing existing conservation activities. Also, the new program operates under an annual acreage limitation rather than a funding cap. The budget proposes $629 million, an increase of $160 million from 2010 for the program to enrol 12 million acres during 2011. [319]

(b) WTO Consistency

It may be argued that support provided to producers through this program should be exempt from the U.S. AMS and domestic support reduction commitments on the basis that these are payments made under a conservation program for purposes of Annex 2(12) to the Agreement on Agriculture. However, Annex 2(12)b limits the exemption to the cost of compliance with government programs. This program involves voluntary initiatives.

(c) Program Level

The FY 2011 Budget Summary reports the total program levels for the Conservation Security Program and Conservation Stewardship Program as follows:[320]

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316 Ibid., pg 124

317 Ibid.

318 *Conservation Security Program* – The Conservation Security Program was established in the 2002 Farm Bill and is a voluntary program that provides financial and technical assistance on Tribal and private agricultural working lands to support ongoing conservation stewardship. The program provides payments to producers who maintain and enhance the condition of natural resources. The program was not reauthorized in the 2008 Farm Bill. The 2011 Budget includes additional funding for the Conservation Security Program in order to service existing contracts.

319 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 91

320 Ibid., pg 87

		Conservation Security Program		Conservation Stewardship Program
2009	(Enacted)	$276,000,000	(Enacted)	$9,000,000
2010	(Estimate)	$234,000,000	(Estimate)	$469,000,000
2011	(Budget)	$212,000,000	(Budget)	$629,000,000

(d) Allocation to Dairy

The support provided through this program may not exclusively be attributed to dairy producers. The support provided to dairy producers through this program can be allocated on the basis of dairy's share of total U.S. agricultural production.

In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Assuming that dairy's value share of total U.S. agricultural production remains constant, dairy's portion of the $276,000,000 budgeted program level for FY 2009 would amount to $29,532,000 of the Conservation Security Program. As per the Conservation Stewardship Program, dairy's portion of the $9,000,000 Budgeted program level for FY 2009 would amount to $963,000.

H. Farm and Ranch Lands Protection Program (Budget Code 12-1004-0-1-302.00.06)[321]

(a) Program Description

The Farm and Ranch Lands Protection Program supports the conservation of agricultural land by assisting farmers and ranchers keep their land in productive agricultural use. The purpose of the program is to protect soil by limiting non-agricultural use of prime and unique farm and ranch land. Through this program, USDA works with State, local or tribal government entities or non-profit organizations to share the cost of acquiring "conservation easements" from farmers or ranchers.

Conservation easements are rights of way that restrict conversion of agricultural land to non-agricultural use as a means of preserving the land for agricultural use. The landowner that gives the easement retains the right to use the covered property for agricultural use.

The conservation easements may include all or part of a farm or ranch and it must be large enough to support long-term agricultural production.

(b) WTO Consistency

Although the Farm and Ranch Lands Protection Program is described as a conservation program intended to protect agricultural land from urban sprawl, support provided under this program should be included in the U.S. AMS and be subject to domestic support reduction commitments.

Under this program, qualifying farmers and ranchers can assign an easement to USDA and its partners in exchange for payment. The easement does not interfere with their use and enjoyment of the property with the exception that it prohibits their right to convert the land to non-agricultural use. In a very real sense, this program provides a one-time payment to producers to ensure that they will continue to be active producers.

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[321] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 124

Domestic support programs can be exempt from inclusion in the AMS and domestic support reduction commitments if they have minimal or no trade distorting effects or effects on production and meet any of the specific exemptions set out in Annex 2 to the Agreement on Agriculture.

In this case, payments preclude producers from taking the agricultural land at issue out of production. Thus, the payment made to keep the farm or ranch land in production is a payment intended to affect (maintain) production where there are at least potentially more economic uses for the land. Therefore, the program has trade and production distorting effects and the support provided under this program must be included in the U.S. AMS and is subject to domestic support reduction commitments.

(c) Program Level

Funding for the Farm and Ranch Lands Protection Program is provided through the Commodity Credit Corporation. Funding in FY 2009 was $121 million and FY 2011 Budget proposes $160 million for this program and proposes to permanently cancel funds exceeding this amount for the program in 2011. The USDA FY 2011 Budget Summary reports the following program levels for this program:[322]

2009 (Enacted)	$121,000,000
2010 (Estimate)	$150,000,000
2011 (Budget)	$160,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these

322 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total expenditures under this program were $121,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $12,947,000.

I. Grassland Reserve Program (GRP) (Budget Code 12-1004-0-1-302.00.08)[323]

(a) Program Description

The Grassland Reserve Program assists landowners in restoring and protecting grassland by enrolling acreage under easements or through long-term rental agreements. The 2008 Farm Bill reauthorized the program for 2009-2012 and capped it at 1.2 million additional acres.

NRCS works with landowners through conservation planning and assistance designed to benefit the soil, water, air, plants, and animals that result in productive lands and healthy ecosystems.[324]

(b) WTO Consistency

Although the Grassland Reserve Program is described as a conservation program intended to preserve grassland and protect it from development, support provided under this program should be included in the U.S. AMS and be subject to domestic support reduction commitments.

Under this program, qualifying landowners can enroll their land in the program through easements or long-term rental agreements. With some minor exceptions, these arrangements do not interfere with their right to continue to use the land for grazing purposes. As noted, the program emphasizes support for working grazing operations. Thus, through this program payments are made to landowners to ensure that the grassland is preserved for grazing. In a very real sense, this program ensures that landowners will continue to be active producers.

Domestic support programs can be exempt from inclusion in the AMS and domestic support reduction commitments if they have little or no trade distorting effects or effects on production and meet any of the specific exemptions set out in Annex 2 to the Agreement on Agriculture.

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323 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 124
324 http://www.nrcs.usda.gov/about/

In this case, if payments are not made or available, the producers may decide take the grassland at issue out of production. Thus, the payment made to keep the grassland in production is a payment intended to affect production. Therefore, the program has trade and production distorting effects and the support provided under this program must be included in the U.S. AMS and be subject to domestic support reduction commitments.

(c) Program Level

The USDA FY 2011 Budget Summary reports the following program level on account of the Grassland Reserve Program:[325]

2009	(Enacted)	$48,000,000
2010	(Budget)	$101,000,000
2011	(Budget)	$79,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. However, in view of the linkage to grazing, dairy products would benefit more than the 10.7% share that we have used in allocating for non-dairy specific programs. However, as we have noted earlier, the share of dairy producers will vary considerably from one program to another. We cannot ignore the averaging methodology when we could make a case for higher allocation to dairy.

Total expenditures under this program were $48,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $5,136,000.

[325] *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

J. Resource Conservation and Development (Budget Code 12-1010-0-1-302)[326]

(a) Program Description

Through the Resource Conservation and Development program (RC&D), USDA works with State, local and tribal governments and with non-profit organizations to plan, develop and carry out resource conservation and development programs.

The objective of the program is to accelerate the conservation, development and utilization of natural resources, improve the general level of economic activity, and to enhance the environment and standard of living in designated RC&D areas.[327]

(b) WTO Consistency

The Resource Conservation and Development program is not a conservation program in the truest sense because its objective is to support development and exploitation of resources. Thus, to the extent that this program is used to increase agricultural production, it would appear to provide a subsidy with trade and/or production distorting effects. Consequently, the support provided through this program must be included in the U.S. AMS and is subject to domestic support reduction commitments.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the Resource Conservation and Development program:[328]

326 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 128
327 http://www.nrcs.usda.gov/programs/rcd/; January 20, 2010
328 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

2009	(Estimate)	$51,000,000
2010	(Estimate)	$51,000,000
2011	(Budget)	-----

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

Total resources available under this program were $51,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $5,457,000.

K. Wildlife Habitat Incentives Program (Budget Code 12-1004-0-1-302.00.05,[329] 12–3322–0–1–302)[330]

(a) Program Description

The Wildlife Habitat Incentive Program assists individuals who want to develop and improve wildlife habitat. Supported programs primarily seek to develop and preserve upland wildlife, wetlands wildlife, threatened and endangered species, fish and other types of wildlife.[331]

The Natural Resources Conservation Service administers WHIP to provide both technical assistance and up to 75% cost-share assistance to establish and improve fish and wildlife habitat. WHIP cost-share agreements between NRCS and the participant generally last from one year after the last conservation practice is implemented but not more than 10 years from the date the agreement is signed.[332]

(b) WTO Consistency

Program expenditures on account of the Wildlife Habitat Incentives Program would appear to be exempt from inclusion in the U.S. AMS and from domestic support reduction commitments on the basis that these payments are in support of a conservation program as discussed in Annex 2(12) to the Agreement on Agriculture.

(c) Program Level

Program funding is provided by the Commodity Credit Corporation. The FY 2011 Budget Summary reports the following program levels for the Wildlife Habitat Incentive Program:[333]

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329 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 124
330 Ibid., pg 130
331 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 91
332 http://www.nrcs.usda.gov/programs/whip/; January 20, 2010
333 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

2009	(Enacted)	$85,000,000
2010	(Estimate)	$85,000,000
2011	(Estimate)	$73,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

The program level was $85,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $9,095,000.

L. Watershed and Flood Prevention Operations (Budget Code 12-1072-0-1-301)[334]

(a) Program Description

USDA, through the Natural Resources Conservation Service, is responsible for flood prevention operations, which include flood prevention operations, emergency watershed protection and small watershed operations. Projects supported through these programs include watershed protection, flood prevention, erosion and sediment control, water supply, water quality, fish and wildlife habitat enhancement, wetlands creation and restoration, and public recreation in watersheds of 250,000 or fewer acres. Both technical and financial assistance are available.[335]

(b) WTO Consistency

Program expenditures on account of Watershed and Flood Prevention Operations appear to be exempt from inclusion in the U.S. AMS and from domestic support reduction commitments on the basis that these payments are in support of a conservation program as envisaged in Annex 2(12) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels resources on account of Watershed and Flood Prevention Operations:[336]

2009	(Enacted)	$24,000,000
2010	(Estimate)	$30,000,000
2011	(Budget)	-----

334 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 126
335 http://www.pa.nrcs.usda.gov/programs/watershed.html; February 2, 2010
336 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The program level resources available were $24,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $2,568,000.

M. **Watershed Rehabilitation Program** (Budget Code 12-1002-0-1-301.00.01)[337]

(a) Program Description

To provide technical and financial assistance to rehabilitate dams originally constructed with assistance of USDA Watershed Programs. Rehabilitation must extend the life of the dam and meet applicable safety and performance standards. Priority is given to dams that could result in loss of life if the dam should fail.[338]

(b) WTO Consistency

This is a normal function of government delivered through USDA. Program expenditures on account of the Watershed Rehabilitation Program should be exempt from inclusion in the U.S. AMS and from domestic support reduction commitments on the basis that these payments are in support of a conservation program for purposes of Annex 2(12) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the Watershed Rehabilitation Program:[339]

2009 (Estimate)	$40,000,000
2010 (Estimate)	$40,000,000
2011 (Budget)	$40,000,000

337 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 127

338 *Catalogue of Federal Domestic Assistance- Watershed Rehabilitation Program* *www.cfda.gov/index?s=program&mode=form&tab=step1&id=d693c8121dc2af24a772b1a22ff5c6d3; January 20, 2010*

339 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

The program level under this program was $40,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $4,280,000.

N. Wetlands Reserve Program (Budget Code 12-1080-0-1-302)[340]

(a) Program Description

A voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property. The USDA Natural Resources Conservation Service (NRCS) provides technical and financial support to help landowners with their wetland restoration efforts. The NRCS goal is to achieve the greatest wetland functions and values, along with optimum wildlife habitat, on every acre enrolled in the program. This program offers landowners an opportunity to establish long-term conservation and wildlife practices and protection.[341]

(b) WTO Consistency

Program expenditures on account of the Wetlands Reserve Program would appear to be exempt from inclusion in the U.S. AMS and from domestic support reduction commitments because these are structural adjustment payments made to retire agricultural land from productive use as envisaged in Annex 2(10) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the Wetlands Reserve Program:[342]

2009 (Enacted)	$436,000,000
2010 (Estimate)	$613,000,000
2011 (Budget)	$502,000,000

340 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 129
341 http://www.nrcs.usda.gov/programs/wrp/; January 20, 2010
342 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 87

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. agricultural production.

The program level for this program was $436,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $46,652,000.

VII. Crop Insurance

The Risk Management Agency oversees the Federal Crop Insurance Program. The Agency handles the policy and oversight of the program, but insurance policies are sold and managed by private insurance agents. The Risk Management Agency shares the risk with the private companies.[343]

Federal Crop Insurance Program (Budget Code 12-4085-0-3-351)[344]

(a) Program Description

The Federal Crop Insurance Program provides an important safety net that protects producers from a wide range of risks caused by natural disasters, as well as the risk of price fluctuations. In recent years, an increasing proportion of risk protection has been provided by revenue insurance which protects against both a loss of yield and price declines. The Federal Crop Insurance Program is a critical component of the farm safety net.

In 2009, about 70% of the liabilities were covered under revenue products which provide protection against both a loss of yield and a decline in commodity prices.

Participation in the Federal Crop Insurance Program by producers is voluntary; however, participation is encouraged through premium subsidies. In addition, participation in the Federal Crop Insurance Program is required in order to participate in the supplemental agricultural disaster assistance programs authorized in the 2008 Farm Bill.

343 www.rma.usda.gov, January 20, 2010
344 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 99

(b) WTO Consistency

The Federal Crop Insurance plays a very important role in supporting U.S. agriculture. The FY 2011 Budget Summary describes the program as follows:

> "The Federal Crop Insurance Program provides an important safety net that protects producers from a wide range of risks caused by natural disasters, as well as the risk of price fluctuations. In recent years, an increasing proportion of risk protection has been provided by revenue insurance which protects against both a loss of yield and price declines. The Federal Crop Insurance Program is a critical component of the farm safety net."[345]

As part of the safety net provided by U.S. support programs, the Federal Crop Insurance Program provides U.S. agricultural producers with insurance subsidized at below market rate premiums and, more importantly at rates below the cost of the insurance to the U.S. Government. This is evident from the Premium and Subsidy and Net Income or Loss Tables set out in the FY 2011 Budget.

The Premium and Subsidy entry lists total shows premiums and total indemnities as follows:[346]

Thus, although producers who choose to participate in this program pay premiums, the premiums collected are not sufficient to cover all of the costs of the program. Indeed, the subsidy significantly exceeds the premiums actually paid. As a result, the program operates at a loss, and this loss constitutes a subsidy.

	Producer Premium	Premium Subsidies	Total Premiums	Indemnities
2009 (Estimate)	$3,810,000,000	$5,236,000,000	$9,046,000,000	$9,046,000,000
2010 (Estimate)	$3,558,000,000	$4,892,000,000	$8,450,000,000	$8,450,000,000
2011 (Estimate)	$3,601,000,000	$5,559,000,000	$9,160,000,000	$9,160,000,000

345 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 39
346 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 103

The provision of below-market rate crop insurance provides a benefit to domestic producers and, on that basis, constitutes a domestic subsidy. The issue for consideration is whether the subsidy provided through this program is to be included in the U.S. AMS. Government participation in an insurance program is addressed in Annex 2(7) to the Agreement on Agriculture. Absent clear proof the Federal Crop Insurance Program meets the requirements of Annex 2(7), the value of the domestic subsidy provided to U.S. producers through this program would not be exempt from U.S. domestic support reduction commitments.

(c) Program Level

The amount of the subsidy/benefit is the premium subsidy. This is well established by U.S. and Canadian countervailing duty administration.

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefit dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production.

Several programs with the RMA of interest to dairy and livestock producers are:

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A. Livestock Gross Margin Insurance for Cattle

(a) Program Description

The Livestock Gross Margin for Cattle (LGM for Cattle) insurance policy provides protection against the loss of gross margin (market value of livestock minus feeder cattle and feed costs) on cattle. The indemnity at the end of the 11-month insurance period is the difference, if positive, between the gross margin guarantee and the actual gross margin. The LGM for Cattle insurance policy uses futures prices to determine the expected gross margin and the actual gross margin. Adjustments to futures prices are state- and month-specific basis levels. The price the producer receives at the local market is not used in these calculations.

Any producer who owns cattle in the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin and Wyoming is eligible for LGM for Cattle insurance coverage.

Only cattle sold for commercial or private slaughter primarily intended for human consumption and fed in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin and Wyoming are eligible for coverage under the LGM for Cattle insurance policy.[347]

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[347] www.rma.usda.gov/livestock

B. Livestock Gross Margin for Dairy Cattle Insurance Policy

(a) Program Description

The Livestock Gross Margin for Cattle (LGM for Cattle) insurance policy provides protection against the loss of gross margin (market value of livestock minus feeder cattle and feed costs) on cattle. The indemnity at the end of the 11-month insurance period is the difference, if positive, between the gross margin guarantee and the actual gross margin. The LGM for Cattle insurance policy uses futures prices to determine the expected gross margin and the actual gross margin. Adjustments to futures prices are state- and month-specific basis levels. The price the producer receives at the local market is not used in these calculations.

Any producer who owns cattle in the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin and Wyoming is eligible for LGM for Cattle insurance coverage.

Only cattle sold for commercial or private slaughter primarily intended for human consumption and fed in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin and Wyoming are eligible for coverage under the LGM for Cattle insurance policy.[348]

[348] Ibid.

C. The Livestock Gross Margin for Swine insurance policy

(a) Program Description

The Livestock Gross Margin for Swine (LGM for Swine) insurance policy provides protection against the loss of gross margin (market value of livestock minus feed costs) on swine. The indemnity at the end of the 6-month insurance period is the difference, if positive, between the gross margin guarantee and the actual gross margin. The LGM for Swine insurance policy uses futures prices to determine the expected gross margin and the actual gross margin. The price the producer receives at the local market is not used in these calculations.

Any producer who owns swine in the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin and Wyoming is eligible for LGM for Swine insurance coverage.

Only swine sold for commercial or private slaughter primarily intended for human consumption and fed in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin and Wyoming are eligible for coverage under the LGM for Swine insurance policy.

LGM for Swine has two advantages/features.

Producers can sign up for LGM for Swine 12 times per year and insure all of the swine they expect to market over a rolling 6-month insurance period. The producer does not have to decide on the mix of options to purchase, the strike price of the options, or the date of entry.

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The LGM for Swine policy can be tailored to any size farm. Options cover fixed amounts of commodities and those amounts may be too large to be used in the risk management portfolio of some farms.[349]

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[349] Ibid.

D. Livestock Risk Protection Feeder Cattle Insurance

Program Description

LRP-Feeder Cattle insurance protects feeder cattle producers against a decline in prices below the established coverage price.

B. Insurance Period: LRP-Feeder Cattle insurance is offered for 13, 17, 21, 26, 30, 34, 39, 43, 47 or 52-week periods. The time closest to the time the cattle will be marketed or reach the desired weight should be chosen.

The LRP-Feeder Cattle program is offered in all counties in the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin, and Wyoming. Maximum herd size is 2,000 head.[350]

[350] Ibid.

E. Livestock Risk Protection Lamb Insurance Policy

(a) Program Description

Livestock Risk Protection (LRP)-Lamb is designed to insure against unexpected declines in market prices. Sheep producers may select from a variety of coverage levels and insurance periods that match general feeding, production, and marketing practices.

LRP-Lamb may be purchased weekly throughout the year from RMA-approved livestock insurance agents. Premium rates, coverage prices, and actual ending values are posted online weekly.

Sheep producers submit a one-time application for LRP-Lamb coverage. After the application is accepted, specific coverage endorsements may be purchased. The number of lambs insured under a Specific Coverage Endorsement is limited to 2,000 head. The annual limit for LRP-Lamb is 28,000 head per producer for each crop year (July 1 to June 30). All insured lambs must be located in a State approved for LRP-Lamb at the time insurance is purchased.

The length of insurance available for each Specific Coverage Endorsement is 13, 20, 26, or 39 weeks. Lambs covered under the policy are feeder or slaughter lambs that are expected to weigh between 50 and 150 pounds by the ending period.

LRP-Lamb is available to sheep producers with lambs in the following 28 States: Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Sheep producers may select coverage prices ranging from 80 to 95 percent of the expected ending value. At the end of the insurance period, if the actual ending value is below the coverage price, an indemnity will be paid for the difference between the coverage price and actual ending value.[351]

351 Ibid.

F. Supplemental Revenue Assistance Payments Program (SURE)

(a) Program Description

The largest of the new farm disaster assistance programs authorized through the 2008 farm bill is the Supplemental Revenue Assistance Payments Program (SURE) for crop producers for losses occurring from crop year 2008 through September 30, 2011. The program is designed to compensate eligible producers for a portion of crop losses that are not eligible for an indemnity payment under the crop insurance program (i.e., the portion of losses that is part of the deductible on the policy.) An eligible producer can receive a payment equal to 60% of the difference between a target level of revenue and the actual total farm revenue for the entire farm. The target level of revenue will be based on the level of crop insurance coverage selected by the farmer, thus increasing if a farmer opts for higher levels of coverage.

To be eligible for a payment, a producer must be in or contiguous to a county that has been declared a disaster area by the Secretary of Agriculture, or have an overall 50% farm loss. Payments are limited so that the disaster program guarantee level cannot exceed 90% of what income likely would have been in the absence of a natural disaster. The producer also must have at least the minimum level of crop insurance (CAT) coverage for insurable crops and participate in the NAP program for non-insurable crops.[352]

[352] Congressional Research Service Report: "Agricultural Disaster Assistance" April 28, 2010

VIII. Rural Development

The Rural Development (Budget Code 12-0403-0-1-452)[353] programs administered by the U.S. Department of Agriculture provide financial and technical assistance to rural residents, businesses and private and public entities for a variety of purposes. These include infrastructure projects required to meet basic needs, such as drinking water and electricity. The objective of these programs is to improve the economic opportunities and quality of life in rural America.

The Rural Development programs operated by USDA include:

I) Rural Development

(a) Rural Community Advancement Program (Budget Code 12-0400-0-1-452)

II) Rural Business – Cooperative Service

The Rural Business-Cooperative Service administers:

(a) Rural Empowerment Zones and Enterprise Community Grants (Budget Code 12-0402-0-1-452)

(b) Rural Cooperative Development Grants (Budget Code 12-1900-0-1-452)

(c) Rural Economic Development Grants (Budget Code 12-3105-0-1-452)

(d) Rural Microenterprise Investment Program Account (Budget Code 12-1955-0-1-452)

(e) Rural Business and Industry Direct Loans Financing (Budget Code 12-4223-0-3-452)

(f) Rural Business and Industry Guaranteed Loan Financing Account (Budget Code 12-4227-0-3-452)

(g) Rural Development Loan Fund Program Account (Budget Code 12-2069-0-1-452)

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353 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 130

(h) Rural Development Loan Fund Direct Loan Financing Account (Budget Code 12-4219-0-3-452)

(i) Rural Development Loan Fund Liquidating Account (Budget Code 12-4233-0-3-452)

(j) Rural Economic Development Loans Program Account (Budget Code 12-3108-0-1-452)

(k) Rural Economic Development Direct Loan Financing Account (Budget Code 12-4176-0-3-452)

(l) Rural Business Investment Programs Account (Budget Code 12-1907-0-1-452)

(m) Rural Energy for America Program (Budget Code 12-1908-0-1-451)

III) Rural Utilities Service

The Rural Utilities Service administers:

(a) High Energy Cost Grants (Budget Code 12-2042-0-1-452)

(b) Rural Water and Waste Disposal Direct Loans Financing Account (Budget Code 12-4226-0-3-452)

(c) Rural Water and Waste Water Disposal Guaranteed Loans Financing Account (Budget Code 12-4218-0-3-452)

(d) Rural Electrification and Telecommunications Loans Program (Budget Code 12-1230-0-1-271)

(e) Rural Electrification and Telecommunications Direct Loan Financing Account (Budget Code 12-4208-0-3-271)

(f) Rural Electrification and Telecommunications Guaranteed Loans Financing Account (Budget Code 12-4209-0-3-271)

(g) Rural Electrification and Telecommunications Liquidating Account (Budget Code 12-4230-0-3-999)

(h) Rural Telephone Bank Account Program (Budget Code 12-1231-0-1-452)

(i) Rural Telephone Bank Direct Loan Financing Account (Budget Code 12-4210-0-3-452)

(j) Distance Learning Telemedicine and Broadband Program (Budget Code 12-1232-0-1-452)

(k) Distance Learning, Telemedicine and Broadband Direct Loan Financing Account (Budget Code 12-4146-0-3-452)

(l) Rural Development Insurance Fund Liquidating Account (Budget Code 12-4155-0-3-452)

(m) Rural Communication Development Fund Liquidating Account (Budget Code 12-4142-0-3-452)

IV) Rural Housing Service

The Rural Housing Service administers:

(a) Rural Housing Assistance Grants (Budget Code 12-1953-0-1-604)

(b) Farm Labor Program Account (Budget Code 12-1954-0-1-604)

(c) Rental Assistance Program (Budget Code 12-0137-0-1-604)

(d) Multi-Family Housing Revitalization Program (Budget Code 12-2002-0-1-604)

(e) Mutual and Self Help Housing Grants (Budget Code 12-2006-0-1-604)

(f) Rural Community Facility Direct Loans Financing Account (Budget Code 12-4225-0-3-452)

(g) Rural Community Facility Guaranteed Loans Financing Account (Budget Code 12-4228-0-3-452)

(h) Rural Housing Insurance Fund Program Account (Budget Code 12-2081-0-1-371)

(i) Rural Housing Insurance Fund Direct Loan Financing Account (Budget Code 12-4215-0-3-371)

(j) Rural Housing Insurance Fund Guaranteed Loan Financing Account (Budget Code 12-4216-0-3-371)

(k) Rural Housing Insurance Fund Liquidating Account (Budget Code 12-4141-0-3-371)

The overall program levels for Rural Development programs, as reported in the FY 2011 Budget Summary, are as follows[354]:

2009	(Enacted)	$48,020,000,000
2010	(Estimate)	$27,930,000,000
2011	(Budget)	$24,059,000,000

The monies expended on account of the Rural Development programs provide indirect support to U.S. agricultural producers. As this support is not provided exclusively to dairy producers, the

[354] *FY 2011 Budget Summary,* Department of Agriculture, pg 136

amount of support provided on account of dairy production is allocated on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $48,020,000,000 expended on account of Rural Development programs in 2009, $5,138,140,000 is allocated to dairy producers.

A. Rural Business – Cooperative Service (Budget Code 12-0402-0-1-452)[355]

A.1 Rural Business and Industry (RB&I) Guarantee Loans
(Budget Code12-4227-0-3-452)[356]

(a) Program Description

The Rural Business and Industrial (RB&I) Guaranteed Loan program guarantees loans by commercial local lenders to businesses in rural areas. By guaranteeing loans made by commercial lenders against a portion (up to a maximum of 90%) of loss resulting from borrower default, the RB&I Guaranteed Loan program is meant to expand the available credit for rural businesses. RB&I guarantee can result in a number of benefits to such businesses.

The loan guarantee may be used for business and industrial acquisitions, construction, conversion, expansion, repair, modernization, or development costs; purchase of equipment, machinery, or supplies; startup costs and working capital; processing and marketing facilities; pollution control and abatement; and refinancing for viable projects, under certain conditions. The 1996 Farm Bill expanded the eligible use for RB&I Guaranteed loan funds to the purchase of startup cooperative stock for family-sized farms where commodities are produced to be processed by the cooperative. Ineligible loan purposes include: lines of credit, agricultural production which is not part of an integrated business involved in processing of agricultural products, or any project likely to transfer employment from one area to another.[357]

(b) WTO Consistency

The loan guarantees made under this program confer a subsidy on agricultural producers, in the form of the loan guarantees provided at below market rates or on terms not available from commercial lenders. The support provided through these loan guarantees may be used to increase production and, on this basis, would not be excluded from U.S. obligations to reduce

355 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 144
356 Ibid.
357 www.attra.org, February 3, 2010

`domestic support. Consequently, the support must be included in the U.S. AMS and be subject to domestic support reduction commitments.

(c) Program Level

The FY 2011 Budget Summary for the Department of Agriculture reports the following expenditures on account of this program:[358]

Rural Business – Cooperative Services

2009	(Enacted)	$3,406,000,000
2010	(Estimate)	$2,328 ,000,000
2011	(Estimate)	$1,431,000,000

(d) Allocation to Dairy

The Rural Business Cooperative Service Loans and Grants program does not exclusively benefit dairy producers, therefore the value of this program to dairy producers is determined on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy accounted for 10.7% of the total value of U.S. agricultural production. Therefore, of the $3,406,000,000 expended on account of business and industry loan guarantees under this program, $364,442,000 is allocated to dairy producers.

358 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 136

A.2 **Rural Housing Service** (Budget Code 12-1953-0-1-604)[359]

(a) Program Description

Through the Rural Housing Service, the USDA provides funds, primarily in the form of loans, to support the construction of housing for low-income families, rental assistance, community facility programs which support the construction of fire halls, libraries and other public buildings.

(b) WTO Consistency

These programs provide indirect support to dairy producers, but would likely not have either trade or production distorting effects. Therefore, support provided through these programs should not be included in the U.S. AMS or be subject to domestic support reduction commitments.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the account of Rural Housing Service programs:[360]

2009	(Enacted)	$22,568,000,000
2010	(Budget)	$15,525,000,000
2011	(Budget)	$15,563,000,000

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359 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 132
360 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 136

(d) Allocation to Dairy

The programs administered by the Rural Housing Service provide important indirect support to dairy producers. This support is not provided exclusively to dairy producers, therefore the total value of support to dairy producers is determined on the basis of dairy's share of total U.S. agricultural production. In 2009 dairy represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $22,568,000,000 expended on account of Rural Housing Service programs in 2009, $2,414,776,000 can be attributed to support of dairy production.

A.3 **Rural Utilities Service** (Budget Code 12-2042-0-1-452)[361]

(a) Program Description

Through the Rural Utilities Service, USDA supports a number of rural programs including: telecommunications; broadband internet; distance learning; telemedicine and waste and water disposal.

(b) WTO Consistency

These programs provide indirect support to dairy producers, but would not likely have either trade or production distorting effects. Therefore, support provided through these programs should not be included in the U.S. AMS or be subject to domestic support reduction commitments.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels on account of Rural Utilities Service Loans and Grants programs:[362]

2009	(Enacted)	$21,722,000,000
2010	(Estimate)	$9,875 ,000,000
2011	(Budget)	$6,833,000,000

[361] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 156
[362] *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 136

(d) Allocation to Dairy

The programs administered by the Rural Housing Service provide important indirect support to dairy producers. This support is not provided exclusively to dairy producers, therefore the total value of support to dairy producers is determined on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $21,722,000,000 expended on account of Rural Housing Service programs in 2009, $2,324,254,000 can be attributed to support for dairy production.

IX. Animal and Plant Health Inspection Services

The Animal and Plant Health Inspection Service (APHIS) (Budget Code 12-1600-0-1-352) [363] enhances the safety and protection of U.S. agriculture and of the U.S. food supply. APHIS also enhances economic opportunities for agricultural producers. APHIS provides:

(i) inspection and quarantine services;
(ii) surveillance and monitoring of plant and animal diseases;
(iii) administration of control and eradication programs to combat plant and animal disease outbreaks;
(iv) scientific and technical assistance to mitigate damage to agriculture, industry, natural resources or human health caused by wildlife;
(v) inspection for human care and handling of animals used in research, exhibits or the wholesale pet trade; and
(vi) scientific and technical assistance on biotechnology, disease diagnostics and pest control methods development.

The major APHIS programs are:

(a) Agricultural Quarantine Inspection
(b) Plant and Animal Health Monitoring and Surveillance
(c) Pest and Disease Management Programs
(d) Animal Care
(e) Scientific and Technical Services

[363] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 86

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Program Level

The total program levels for programs administered by the Animal and Plant Health Inspection Service are reported as follows:[364]

2009	(Enacted)	$1,092,000,000
2010	(Estimate)	$1,188,000,000
2011	(Budget)	$1,134,000,000

The support provided through APHIS programs provides direct support to U.S. agricultural production. As this support is not directed exclusively at dairy production, the amount allocated to dairy is in proportion to dairy's share of total U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. dairy production. Therefore, of the $1,092,000,000 budgetary resources available for Animal and Plant Health Inspection Service programs in 2009, $116,844,000 is allocated as support of U.S. dairy production.

364 *FY 2010 Budget Summary,* U.S. Department of Agriculture, pg 85

A. Agricultural Quarantine Inspection Fees (Budget Code 12-1600-0-1-352.00.12)[365]

(a) Program Description

USDA is responsible for ensuring that passengers and cargoes traveling from Hawaii and Puerto Rico comply with specified regulations to protect the health of the agricultural sector on the Mainland. Further, USDA retains the responsibility of promulgating regulations related to entry of passengers and commodities into the United States. The remainder of responsibility for this program has been transferred to Homeland Security.

(b) WTO Consistency

Expenditures by the Animal and Plant Health Inspection Service clearly provide significant benefits to U.S. agriculture in controlling risks which could reduce agricultural production. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are a normal function of government. Such expenditures clearly exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the Agricultural Quarantine Inspection Fees program:[366]

2009	(Enacted)	$147,000,000[367]
2010	(Estimate)	$186,000,000
2011	(Budget)	$190,000,000

365 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 87
366 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 101
367 "Total estimated collections are $498 million in 2010 and $508 million in 2010. Of the total, $312 million and $318 million are transferred to the Department of Homeland Security in 2010 and 2011 respectively.

(d) Allocation to Dairy

The Agricultural Quarantine Inspection program provides important support to U.S. dairy producers, but this support is not provided exclusively to dairy production. Therefore, the support provided to dairy producers under this program is determined on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $147,000,000 program level on account of this program in 2009, $15,729,000 can be attributed to dairy production.

B. Plant and Animal Health Monitoring (Budget Code 12-1600-0-1-352.00.02)[368]

(a) Program Description

APHIS is responsible for detecting and responding to agricultural health risks.

(b) WTO Consistency

Expenditures by the Animal and Plant Health Inspection Service clearly provide significant benefits to U.S. agriculture. As these services are provided at no cost, they would constitute domestic support. Commercial operations in the industrial sector are responsible for their own quality central systems and the cost of running them. However, expenditures under these programs are clearly exempted from U.S. and AMS domestic support reduction commitments pursuant to Annex 2(2) to the Agreement on Agriculture, which envisages "Green" status for:

> 2. General services
>
> Policies in this category involve expenditures (or revenue foregone) in relation to programmes which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programmes, which include but are not restricted to the following list, shall meet the general criteria in paragraph 1 above and policy-specific conditions where set out below:
>
> (a) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products;
>
> (b) pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication;
>
> (c) training services, including both general and specialist training facilities;
>
> (d) extension and advisory services, including the provision of means to facilitate the transfer of information and the results of research to producers and consumers;

368 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 89

(e) inspection services, including general inspection services and the inspection of particular products for health, safety, grading or standardization purposes;

(f) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers; and

(g) infrastructural services, including: electricity reticulation, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other than for the reticulation of generally available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges.

(c) Program Level

The FY 2011 Budget Summary reports the following as Total program levels for the Plant and Animal Health Monitoring program:[369]

2009 (Enacted)	$256,000,000
2010 (Estimate)	$249,000,000
2011 (Budget)	$247,000,000

(d) Allocation to Dairy

The Plant and Animal Health Monitoring program provides support to U.S. dairy producers, but this support is not provided exclusively to dairy production. Therefore, the support provided to dairy producers under this program is determined on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $256,000,000 program level on account of this program in 2009, $27,392,000 can be attributed to dairy production.

[369] *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 100

C. Pest and Disease Management Programs (Budget Code 12-1600-0-1-352.00.03)[370]

(a) Program Description

APHIS provides technical and financial support to help control or eradicate a variety of agricultural threats.

(b) WTO Consistency

Expenditures by the Animal and Plant Health Inspection Service clearly provide significant benefits to U.S. agriculture by controlling and eradicating pests which could destroy or seriously damage agricultural crops. This is a type of prevention risk management. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are clearly exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(b) to the Agreement on Agriculture, because they involve pest and disease control.

(c) Program Level

The FY 2011 Budget Summary reports the following as the program levels on account of the Pest and Disease Management program:[371]

2009 (Enacted)	$345,000,000
2010 (Estimate)	$369,000,000
2011 (Budget)	$336,000,000

(d) Allocation to Dairy

The Pest and Disease Management program does not provide support exclusively to dairy production. Therefore, the support provided to dairy producers under this program is determined

[370] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 86
[371] *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 100

on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $345,000,000 program level on account of this program in 2009, $36,915,000 can be attributed to dairy production.

D. **Animal Care** (Budget Code 12-1600-0-1-352.00.04)[372]

(a) Program Description

APHIS is responsible for activities under the Animal Welfare Act and the Horse Protection Act.

(b) WTO Consistency

Expenditures by the Animal and Plant Health Inspection Service clearly provide significant benefits to U.S. agriculture. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are clearly exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(b) to the Agreement on Agriculture because they are pest and disease control programs.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels on account of the Animal Care program:[373]

2009 (Enacted)	$22,000,000
2010 (Estimate)	$22,000,000
2011 (Budget)	$23,000,000

(d) Allocation to Dairy

The Animal Care program provides support to U.S. dairy producers, but this support is not provided exclusively to dairy production. While it is likely that dairy producers benefit by more than dairy's 10%, total U.S. agricultural production, in 2009, dairy production represented 10.7%

372 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 86
373 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 100

of the total value of U.S. agricultural production but as we have noted elsewhere in the report, where we cannot determine specific benefits, we will use the 10.7% factor. Therefore, of the $22,000,000 program level on account of this program in 2009, $2,354,000 can be attributed to dairy production.

E. Scientific and Technical Services (Budget Code 12-1600-0-1-352.00.05)[374]

(a) Program Description

APHIS develops methods and provides diagnostic support to prevent, detect, control, and eradicate agricultural health threats, and to reduce wildlife damages (e.g., coyote predation). It also works to prevent worthless or harmful animal biologics from reaching consumers.

(b) WTO Consistency

Expenditures by the Animal and Plant Health Inspection Service clearly provide significant benefits to U.S. agriculture. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs would appear to be exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for Scientific and Technical Services:[375]

2009 (Enacted)	$30,000,000
2010 (Estimate)	$32,000,000
2011 (Budget)	$29,000,000

[374] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 86
[375] *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 100

(d) Allocation to Dairy

The Scientific and Technical Services program provides important support to U.S. dairy producers, but this support is not provided exclusively to dairy production. Therefore, the support provided to dairy producers under this program is determined on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy production represented 10.7% of the total value of U.S. agricultural production. Therefore, of the $30,000,000 program level on account of this program in 2009, $3,210,000 can be attributed to dairy production.

X. Food Safety and Inspection

The Food Safety and Inspection Service (FSIS) (Budget Code 12-3700-0-1-554)[376] is responsible for domestic and international public health and safety issues related to meat, poultry and egg products regulated by the FSIS and under the general oversight of the Office of the U.S. Manager of the Codex Alimentarius Commission. FSIS also responds to meat, poultry and egg emergencies and coordinates policies and program development with other departments, international organizations, other countries, and State and local governments.

FSIS also provides in-plant inspection to all domestic establishments preparing meat, poultry and processed egg products for sale or distribution into interstate commerce and reviews and approves foreign inspection systems and plants exporting these products to the U.S.

The FSIS program responsibilities include:

- (i) Federal Food Safety and Inspection
- (ii) State Food Safety and Inspection
- (iii) International Food Safety and Inspection
- (iv) Field Automation and Information Management
- (v) Code Alimentarius Commission
- (vi) Existing User Fees and Trust Funds

Arguably, consumers are among the principal beneficiaries of this program; other elements of the program clearly benefit U.S. agriculture by establishing favourable international standards.

[376] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 89

PART I

The FY 2011 USDA Budget reports obligations for the Food Safety and Inspection programs as follows:[377]

2009 (Actual)	$1,107,000,000
2010 (Estimate)	$1,142,000,000
2011 (Budget)	$1,158,000,000

Food Safety and Inspection provides direct support to U.S. agriculture. As this support is not directed exclusively at dairy production, the amount allocated to dairy is in proportion to dairy's share of total U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. dairy production. Therefore, of the $1,107,000,000 program funding account of Food Safety and Inspection programs, $118,449,000 is allocated to support U.S. dairy production.

377 Ibid., pg 80

PART I

A. Federal Food Safety and Inspection

(a) Program Description

FSIS inspects all carcasses in slaughter plants for disease and other abnormalities, and samples for the presence of chemical residues and microbiological contaminants. Meat and poultry processing operations are inspected by FSIS at a minimum on a daily basis. FSIS provides mandatory, continuous in-plant inspection to egg product processing plants. FSIS operates three laboratories to perform scientific testing in support of inspection operations. Other responsibilities ensure that establishments develop and implement acceptable HACCP plans, sanitation standard operating procedures, and humane methods of slaughter.

(b) WTO Consistency

Expenditures by the Food and Safety Inspection Service clearly provide significant benefits to U.S. agriculture by ensuring consumer confidence safety of U.S. food. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are clearly exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(e) to the Agreement on Agriculture, which provides exemption from reduction for "inspection" including general inspection services and the inspection of particular products for health safety, grading or standardization purposes.

(c) Program Level

The FY 2011 Budget Summary for the Department of Agriculture reports the following program levels for the Federal Food Safety and Inspection program:[378]

2009	(Enacted)	$872,000,000
2010	(Estimate)	$903,000,000
2011	(Budget)	$912,000,000

[378] FY 2011 Budget Summary, U.S. Department of Agriculture, pg 80

(d) Allocation to Dairy

The Federal Food Safety and Inspection program does not provide support exclusively to dairy production. Indeed, it could be argued that its focus is meat, poultry and eggs; therefore, benefits to dairy are indirect (dairy cattle are slaughtered in federally inspected plants). Therefore, support to dairy production under this program must be determined on the basis of dairy's share of total U.S. agricultural production. In 2009, the value of dairy production constituted 10.7% of total U.S. agricultural production. Therefore, of the $872,000,000 program level for this program, $93,304,000 is attributable to dairy.

B. State Food Safety and Inspection

(a) Program Description

FSIS has the authority to approve State meat and poultry inspection programs for products traveling in intrastate commerce. FSIS reviews State inspection programs to assure that standards, at least equal to Federal standards, are applied to meat and poultry plants under State jurisdiction. For State inspection programs, USDA contributes, through the Grants to States Program, up to 50% of each State's costs.

(b) WTO Consistency

Expenditures by the Food and Safety Inspection Service clearly provide significant benefits to U.S. agriculture in ensuring the public accepts the safety of U.S. food. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are clearly exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(e) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary for the Department of Agriculture reports the following program levels for the State Food Safety and Inspection program:[379]

2009 (Actual)	$65,000,000
2010 (Estimate)	$66,000,000
2011 (Budget)	$65,000,000

[379] Ibid.

(d) Allocation to Dairy

The program level expenditures made on account of the State Food Safety and Inspection program do not provide support exclusively to dairy production. Therefore, support to dairy production under this program must be determined on the basis of dairy's share of total U.S. agricultural production. In 2009, the value of dairy production constituted 10.7% of total U.S. agricultural production. Therefore, of the $65,000,000 program level in 2009 for this program, $6,955,000 is attributable to dairy.

C. International Food Safety and Inspection

(a) Program Description

FSIS reviews and approves inspection systems in countries exporting meat, poultry and egg products to the U.S. and inspects imported products at ports-of-entry.

(b) WTO Consistency

Expenditures by the Food and Safety Inspection Service clearly provide significant benefits to U.S. agriculture in ensuring that imported products must meet U.S. standards. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(e) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary for the Department of Agriculture reports the following program levels for the International Food Safety and Inspection program:[380]

2009 (Enacted)	$18,000,000
2010 (Budget)	$19,000,000
2011 (Budget)	$16,000,000

(d) Allocation to Dairy

The International Food Safety and Inspection program does not provide benefits exclusively to dairy production. Therefore, support to dairy production under this program must be determined on the basis of dairy's share of total U.S. agricultural production. In 2009, the value of dairy

380 Ibid.

production constituted 10.7% of total U.S. agricultural production. Therefore, of the $18,000,000 program level for this program in FY 2009, $1,926,000 is allocated to dairy products.

D. Codex Alimentarius Commission

(a) Program Description

FSIS coordinates U.S. participation in and informs the public of the sanitary and phytosanitary standard setting activities of the Codex Alimentarius Commission.

(b) WTO Consistency

Expenditures by the Food and Safety Inspection Service clearly provide significant benefits to U.S. agriculture as U.S. participation in CODEX and co-ordination with other countries in the region helps establish standards which are favourable to U.S. farmers and ranchers. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(e) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary for the Department of Agriculture reports the following program levels for the Codex Alimentarius program:[381]

2009 (Enacted)	$4,000,000
2010 (Estimate)	$4,000,000
2011 (Budget)	$4,000,000

(d) Allocation to Dairy

The expenditures made on account of the Codex Alimentarius program do not provide support exclusively to dairy production. Therefore, support to dairy production under this program must

[381] Ibid.

be determined on the basis of dairy's share of total U.S. agricultural production. In 2009, the value of dairy production constituted 10.7% of total U.S. agricultural production. Therefore, of the $4,000,000 program level for this program in 2009, $428,000 is allocated to dairy products.

XI. Food and Nutrition Service

The Food and Nutrition Service (Budget Code 12-3508-0-1-605)[382] administers USDA's domestic nutrition programs. The objective of the program is to promote good nutrition and health by providing children and low-income people better access to a healthy diet. The Food and Nutrition Service achieves this program objective by promotion and direct nutrition assistance through the following programs:

(i) Supplemental Nutrition Assistance Program (SNAP)
(ii) Child Nutrition Programs
(iii) Special Supplemental Nutritional Program for Women, Infants and Children (WIC)
(iv) Commodity Assistance Program

The FY 2011 USDA Budget Summary reports program levels for the Food and Nutrition Service programs as follows:[383]

2009 (Enacted)	$82,249,000,000[384]
2010 (Estimate)	$93,854,000,000
2011 (Budget)	$107,617,000,000

The domestic food aid provided through the Food and Nutrition Service programs provides direct support to U.S. agricultural production. As this support is not directed exclusively at dairy production, the amount allocated to dairy is in proportion to dairy's share of total U.S. agricultural production. In 2009, dairy production accounted for 10.7% of total U.S. dairy production. Therefore, of the $82,249,000,000 program level for Food and Nutrition Service programs, $8,800,643,000 is allocated to U.S. dairy production. Given the limited range of products covered by the FNS, we consider that this methodology understates benefits to dairy.

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382 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 174
383 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 71
384 The FNS budgets were augmented by Recovery spending.

PART I

A. Supplemental Nutrition Assistance Program (SNAP) (Budget Code 12-3505-0-1-605)[385]

(a) Program Description

The Supplemental Nutrition Assistance Program (formerly the Food Stamp Program) attempts to alleviate hunger and malnutrition among low-income persons by increasing their food purchasing power. Eligible households receive electronic cards which are used like ATM cards so they can purchase food through regular retail stores.

SNAP is currently in operation in all 50 States, the District of Columbia, the Virgin Islands, and Guam. Participating households receive food benefits, the value of which is determined by household size and income. The Federal Government pays the cost of the benefits. As required by law, the Food and Nutrition Service annually revises household allotments to reflect changes in the cost of the (thrifty) food plan.

All direct and indirect administrative costs incurred for certification of households, issuance of food credit, quality control, outreach, and fair hearing efforts are shared by the Federal Government and the States on a 50-50 basis.

(b) WTO Consistency

Through these domestic food aid programs, the USDA has the ability to support U.S. agricultural producers by procuring, or supporting the procurement, of commodities to be used in these programs. By participating in the market to this degree, it is almost certain that these programs have significant price supporting effect.[386] On that basis, we consider that these programs constitute domestic support programs.

385 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 175
386 See Berthelot, Jacques; Solidarité

However, Annex 2(4) to the Agreement on Agriculture[387] makes it very clear that expenditures on account of domestic food aid programs are exempt from domestic support reduction commitments so long as eligibility to receive food aid is subject to clearly-defined criteria related to nutritional objectives. On this basis, the support provided to U.S. agriculture through these programs has not been included in the U.S. AMS.

(c) Program Level

The FY 2011 Budget reports the Budget Authority available for this program as follows:[388]

2009	(Actual)	$59,165,000,000
2010	(Estimate)	$69,140,000,000
2011	(Estimate)	$80,179,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers but would appear to benefit dairy more than other nutrition programs. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total resources available under this program were $59,165,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy was $6,330,655,000.

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387 Annex 2(4) Domestic food aid
Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need.

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidized prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

388 Department of Agriculture, The Budget for Fiscal Year 2011, pg 175

B. Child Nutrition Programs (Budget Code 12-3539-0-1)[389]

(a) Program Description

The National School Lunch Program (NSLP) provides per-meal cash reimbursements to schools as an entitlement to provide affordable nutritious meals to children. All public and private nonprofit schools (regardless of tuition) and all residential child care institutions (RCCIs) can participate in the NSLP. School Boards must apply to their state education agency in order to institute a program.

States approve SFSP meal sites as open, enrolled, or camp sites. Open sites operate in low-income areas where at least half of the children come from families with incomes at or below 185% of the Federal poverty level, making them eligible for free and reduced-price school meals. Meals are served free to any child at the open site. Enrolled sites provide free meals to children enrolled in an activity program at the site where at least half of them are eligible for free and reduced-price meals. Camps may also participate in SFSP. They receive payments only for the meals served to children who are eligible for free and reduced-price meals.[390]

(b) WTO Consistency

Through these domestic food aid programs, the USDA has the ability to support U.S. agricultural producers by procuring, or supporting the procurement, of commodities to be used in these programs. By participating in the market to this degree, it is almost certain that these programs have, at a minimum, a significant price supporting effect.

However, Annex 2(4) to the Agreement on Agriculture makes it very clear that expenditures on account of domestic food aid programs are exempt from domestic support reduction commitments so long as eligibility to receive food aid is subject to clearly defined criteria related

389 Ibid., pg 176
390 www.fns.usda.gov/cnd/summer/about/faq.html, January 21, 2010

to nutritional objectives. On this basis, the support provided to U.S. agriculture through these programs has not been included in the U.S. AMS.

(c) Program Level

The FY 2011 Budget reports the total Budget Authority available to fund obligations under this program as follows:[391]

2009 (Actual)	$15,174,000,000
2010 (Estimate)	$17,034,000,000
2011 (Estimate)	$18,392,000,000

(d) Allocation to Dairy

While dairy products are a very significant part of this program, it does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Because of the importance of dairy to basic nutrition, using dairy's share in the total U.S. production will understate the benefits of this program to dairy producers. However, for purposes of consistency the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total resources available under this program were $15,174,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $1,623,618,000.

[391] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 177

C. Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) (Budget Code 12-3510-0-1-605)[392]

(a) Program Description

WIC provides monthly food packages specifically tailored to meet the dietary needs of program participants who must be either a pregnant, postpartum, or breastfeeding woman, or a child under the age of five. To be eligible on the basis of income, applicants' gross income (i.e., before taxes are withheld) must fall at or below 185% of the U.S. Poverty Income Guidelines.[393]

(b) WTO Consistency

Through these domestic food aid programs, the USDA has the ability to support U.S. agricultural producers by procuring, or supporting the procurement, of commodities to be used in these programs. By participating in the market to this degree, it is almost certain that these programs have, at a minimum, a price supporting effect. On that basis, it is likely that these programs constitute domestic support programs.

However, Annex 2(4) to the Agreement on Agriculture makes it very clear that expenditures on account of domestic food aid programs are exempt from domestic support reduction commitments so long as eligibility to receive food aid is subject to clearly-defined criteria related to nutritional objectives. On this basis, the support provided to U.S. agriculture through these programs has not been included in the U.S. AMS.

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392 Ibid., pg 178
393 www.fns.usda.gov/wic/faqs/faq.htm#1, January 21, 2010

(c) Program Level

The FY 2011 Budget reports the Budget Authority available to meet the obligations under this program as follows:[394]

2009 (Actual)	$7,360,000,000
2010 (Estimate)	$7,257,000,000
2011 (Estimate)	$7,603,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total resources available for this program in 2009 were $7,630,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy was $787,520,000.

[394] Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 178

D. Commodity Assistance Program (Budget Code 12-3507-0-1-605)[395]

(a) Program Description

The Commodity Assistance Program provides commodities distributed through several programs including the Emergency Food Assistance Program (TEFAP) and the Commodity Supplemental Food Program (CSFP) which provides USDA donated commodities to food banks, church pantries, soup kitchens and emergency shelters for distribution to low-income people.

The Commodity Program also supports the Senior Farmers' Market Nutrition Program and the Farmers' Market Nutrition Program which gives low-income individuals access to produce and other commodities.

(b) WTO Consistency

Through these domestic food aid programs, the USDA has the ability to support U.S. agricultural producers by procuring, or supporting the procurement, of commodities to be used in these programs. By participating in the market to this degree, it is almost certain that these programs have, at a minimum, a price supporting effect. On that basis, it is likely that these programs constitute domestic support programs.

However, Annex 2(4) to the Agreement on Agriculture would appear to exempt expenditures on account of domestic food aid programs from domestic support reduction commitments so long as eligibility to receive food aid is subject to clearly-defined criteria related to nutritional objectives. On this basis, the support provided to U.S. agriculture through these programs is arguably not included in the U.S. AMS.

[395] Ibid.

(c) Program Level

The FY 2011 Budget reports the total budget authority for this program as follows:[396]

2009	(Actual)	$405,000,000
2010	(Estimate)	$272,000,000
2011	(Estimate)	$271,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The budget authority under this program in 2009 was $405,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $43,335,000.

396 Ibid., pg 179

XII. Grain Inspection, Packers and Stockyards Administration (GIPSA)

(a) Program Description

The United States Department of Agriculture's (USDA) Grain Inspection, Packers and Stockyards Administration (GIPSA) (Budget Code 12-2400-0-1-352)[397] facilitates the marketing of livestock, poultry, meat, cereals, oilseeds, and related agricultural products, and promotes fair and competitive trading practices for the overall benefit of consumers and American agriculture.

GIPSA sets the official U.S. standards for grain, conducts official weighing and grain inspection activities, and grades rice, dry beans and peas, processed grain products, and hops.

The agency is involved in regulating and monitoring the activities of dealers, market agencies, stockyard owners, live poultry dealers, packer buyers, packers, and swine contractors in order to detect prohibited unfair, unjust discriminatory or deceptive, and anti-competitive practices in the livestock, meat and poultry industries. The agency also reviews the financial records of these entities to promote the financial integrity of the livestock, meat, and poultry industries.

(b) WTO Consistency

Expenditures by the Grain Inspection, Packers and Stockyards Administration clearly provide significant benefits to U.S. agriculture. As these services are provided at no cost, they could constitute domestic support. However, expenditures under these programs are exempted from U.S. domestic support reduction commitments pursuant to Annex 2(2)(e) to the Agreement on Agriculture.

[397] Ibid., pg 91

(c) Program Level

The FY 2011 Budget reports the total Budget Authority available for the obligations under this program as follows:[398]

2009	(Actual)	$40,000,000
2010	(Estimate)	$42,000,000
2011	(Estimate)	$44,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

The budget resources available for this program were $40,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $4,280,000.

398 Ibid.

XIII. Forest Service

The Forest Service (Budget Code 12-1106-0-1-302),[399] the largest employer in USDA, is responsible for protecting and enhancing the natural resource base and environment. The Forest Service is responsible for the following major programs:

(i) Forest and Rangeland Research
(ii) State and Private Forestry
(iii) National Forest System
(iv) Capital Improvement and Maintenance
(v) Wildland Fire Management

The FY 2010 Budget Summary for the Department of Agriculture report the following program levels for the Forest Service:[400]

2009 (Enacted)	$7,103,000,000
2010 (Estimate)	$6,151,000,000
2011 (Estimate)	$6,145,000,000

The Forest Service provides indirect support to U.S. agriculture, including dairy producers. The amount of indirect support provided to dairy can be allocated on the basis of dairy's share of total U.S. agricultural production. In 2009, dairy represented 10.7% of all U.S. agricultural production. Therefore, of the $7,103,000,000 expended on account of all Forest Service programs in 2009, $760,021,000 can be allocated as indirect support for dairy producers.

399 Ibid., pg 179
400 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pp 94

PART I

A. Forest and Rangeland Research (Budget Code 12-1104-0-1-302)[401]

(a) Program Description

The Forest and Rangeland Research program operated by the National Forest Service is a research program that is intended to enhance the economic and environmental value of the U.S. forests and related industries.

(b) WTO Consistency

For the most part, the programs operated by the Forest Service would provide indirect support to U.S. agriculture producers. The exceptions would involve the application of these programs to rangeland and grazing land, as well as the acquisition program which could provide direct support to U.S. agriculture if property was acquired from agriculture producers at above-market prices.

To extent that the Forest Service provides support to U.S. agricultural production, this support would be exempt from reduction commitments pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget reports the total budgetary authority available for obligations under this program as follows:[402]

401 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 182
402 Ibid.

2009	(Actual)	$364,000,000
2010	(Estimate)	$392,000,000
2011	(Estimate)	$381,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Budgetary resources for this program were $364,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $38,948,000.

B. **State and Private Forestry** (Budget Code 12-1105-0-1-302)[403]

(a) Program Description

The Forest Service makes grants and provides technical assistance to State forestry agencies and other cooperators for protecting forest resources and improving sustainable forest management on non-industrial private forest lands. Funding is provided for forest pest suppression on all Federal lands and cost-share assistance is made available for pest suppression on private lands. A Cooperative Fire Protection Program provides technical and limited financial support for State wildfire fighting organizations. The Forest Stewardship Program provides technical assistance to non-industrial private landowners for a variety of stewardship practices including tree planting.

Plans are also proposed to fund emerging pest and pathogen control, including response to non-native or invasive pests or pathogens.

The Forest Legacy Program funds, though the States, the acquisition of land or interests in land slated for conversion to non-forest uses.

With the direct cooperation of States, the Forest Stewardship Program helps forest landowners with planning and implementation of sustainable forest management.

(b) WTO Consistency

For the most part, the programs operated by the Forest Service would provide indirect support to U.S. agriculture producers. The exception would be the application of these programs to rangeland and grazing land, as well as the acquisition program which could provide direct support to U.S. agriculture if property was acquired from agriculture producers at above-market prices.

403 Ibid., pg 183

PART I

To extent that the Forest Service provides support to U.S. agricultural production, this support would be exempt from reduction commitments pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget reports the following as the total Budget Authority available for the obligations under this program as follows:[404]

2009	(Actual)	$356,000,000
2010	(Estimate)	$470,000,000
2011	(Estimate)	$400,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Budgetary resources for this program in 2009 were $356,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $38,092,000.

404 Ibid.

C. **Land Acquisition** (Budget Code 12-9923-0-2-302)[405]

(a) Program Description

The Program provides for expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965 as amended. The agency is shifting its focus from acquiring new land to investing to sustain production capacity by implementing various protection programs.

(b) WTO Consistency

For the most part, the programs operated by the Forest Service would provide indirect support to U.S. agriculture producers. Exceptions are programs which affect rangeland, grasslands, grazing lands, as well as the acquisition program which could provide direct support to U.S. agriculture if property was acquired from agriculture producers at above-market prices.

To the extent that the Forest Service provides support to U.S. agricultural production, this support would be exempt from reduction commitments pursuant to Annex 2(2) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget reports the total Budget Authority available for this program as follows:[406]

2009	(Actual)	$60,000,000
2010	(Estimate)	$115,000,000
2011	(Estimate)	$100,000,000

[405] Ibid., pg 188
[406] Ibid., pg 189

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Budgetary resources for this program in 2009 were $75,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $8,025,000.

XIV. Research, Education and Economics

The Research, Education and Economics program is responsible for the discovery, application and dissemination of information and technology through agricultural research, education, extension activities and economic and statistical analysis. The responsibility for these programs is carried out by four agencies:

(i) Agricultural Research Service (ARS)
(ii) National Institute of Food and Agriculture (NIFA)
(iii) Economic Research Service (ERS)
(iv) National Agricultural Statistics Service (NASS)

Based on the budget authority for these individual programs, the aggregate budget authorities for Research, Education and Economics is as follows:[407]

2009 (Estimate)	$2,972,000,000
2010 (Estimate)	$3,005,000,000
2011 (Budget)	$2,970,000,000

The research, education and economics programs operated by the Department of Agriculture provide important support to U.S. agricultural production. Such activities may be exempt from reductions pursuant to Annex 2.2(a) or 2.2(a) of the Agreement on Agriculture.

As these programs do not provide support exclusively to dairy production, the amount allocated to dairy programs is determined based on dairy's share of total U.S. production. The total value of dairy production in 2009 was 10.7% of total U.S. agricultural production. Therefore, of the $2,972,000,000 budgeted for research, education and economics in 2009, $318,004,000 is allocated to support dairy producers.

[407] *FY 2011 Budget Summary, U.S. Department of Agriculture*, pg 135

PART I

A. **Agricultural Research Service** (Budget Code 12-1400-0-1-352)[408]

(a) Program Description

The Agricultural Research Service seeks to ensure reliable, adequate supplies of high-quality food and other agricultural products through scientific research to solve problems in crop and livestock production and protection, human nutrition, and the interaction of agriculture and the environment.

(b) WTO Consistency

It is clear that U.S. agricultural producers benefit from the work undertaken by the USDA research, education and economics services operated by the USDA. However, the services provided by these Agencies appear to fall within the scope of general services which are exempt from domestic support reduction commitments pursuant to Annex 2(2)(a) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary reports the following program levels for the Agricultural Research Service:[409]

2009	(Enacted)	$1,390,000,000
2010	(Estimate)	$1,275,000,000
2011	(Budget)	$1,224,000,000

408 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 76
409 *FY 2011 Budget Summary*, U.S. Department of Agriculture, pg 135

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Budgetary resources for this program in 2009 were $1,390,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $148,730,000.

B. National Institute of Food and Agriculture (Budget Code 12-1502-0-1-352)[410]

(a) Program Description

The National Institute of Food and Agriculture (NIFA) is primarily responsible for providing linkages between federal and state components of a broad-based, national agricultural research, extension and higher education system. NIFA is responsible for administering USDA's primary competitive research grants program and the Agriculture and Food Research Initiative.

(b) WTO Consistency

It is clear that U.S. agricultural producers benefit from the work undertaken by the USDA research, education and economics services operated by the USDA. However, the services provided by these Agencies falls within the scope of general services which are exempt from domestic support reduction commitments pursuant to Annex 2(2)(d) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 Budget Summary report the total obligations and budgetary authority to support this program as follows:[411]

2009 (Enacted)	$1,350,000,000
2010 (Estimate)	$1,486,000,000
2011 (Budget)	$1,494,000,000

410 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 80
411 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 116

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total resources available under this program in 2009 were $1,350,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $144,450,000.

C. Economic Research Service (Budget Code 12-1701-0-1-352)[412]

(a) Program Description

The Economic Research Service provides economic research and information to inform public and private decision-making on economic and policy issues related to agriculture, food, natural resources, and rural America.

The Economic Research Service provides economic analysis of many critical issues facing farmers, agribusiness, consumers, and policymakers. ERS expertise helps these stakeholders conduct business, formulate policy, or just learn about agriculture, food, natural resources, and rural America.

(b) WTO Consistency

It is clear that U.S. agricultural producers benefit from the work undertaken by the USDA research, education and economics services operated by the USDA. However, the services provided by these Agencies falls within the scope of general services which are exempt from domestic support reduction commitments pursuant to Annex 2(2)(a) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 USDA Budget Summary reports the following program levels on account of the Economic Research Service:[413]

412 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 74
413 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 120

2009	(Enacted)	$80,000,000
2010	(Estimate)	$82,000,000
2011	(Budget)	$87,000,000

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total budgetary resources under this program were $80,000,000 in 2009. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $8,560,000.

D. National Agricultural Statistics Service (Budget Code 12-1801-0-1-352)[414]

(a) Program Description

The National Agricultural Statistics Service is responsible for conducting surveys and preparing official data and estimates of production, supply, prices and other information related to agricultural production. The Service also conducts the census of agriculture, currently compiled every five years.

(b) WTO Consistency

It is clear that U.S. agricultural producers benefit from the work undertaken by the USDA research, education and economics services operated by the USDA. However, the services provided by these Agencies falls within the scope of general services which are exempt from domestic support reduction commitments pursuant to Annex 2(2)(a) to the Agreement on Agriculture.

(c) Program Level

The FY 2011 USDA Budget Summary reports the following program levels on account of the National Agriculture Statistics Service:[415]

2009	(Enacted)	$152,000,000
2010	(Estimate)	$162,000,000
2011	(Budget)	$165,000,000

414 Department of Agriculture, *The Budget for Fiscal Year 2011*, pg 75
415 *FY 2011 Budget Summary,* U.S. Department of Agriculture, pg 137

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Total budgetary resources available under this program in 2009 were $152,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $16,264,000.

XV. Irrigation Infrastructure

The U.S. irrigation program (Budget Code 14-0680-0-1-301)[416] provides substantial subsidies that support U.S. agriculture.

There is no question that the irrigation projects are vitally important to U.S. agriculture.

> "Irrigation is the major use of most of the current water supplies in the 11 Western States (Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, Arizona and New Mexico). Agricultural irrigation accounted for 92 percent of total consumptive water use in those states in 1995, down from 95 percent in 1960. The simple fact is that agriculture is the dominant out-of-stream water user means that most transfers will involve water used for irrigated production."[417]

These subsidies are primarily provided at the state and local level in the form of water provided at below-market rates for use in agricultural production. In addition, in some states the electricity used to run irrigation systems is also subsidized. Jacques Berthelot has suggested we might provide more detail on our methodology. Essentially we have multiplied the volume of irrigation water, used by the difference in the cost of water to irrigation projects and to commercial users of water.

Federal support for irrigation is provided through the Department of the Interior, Bureau of Reclamation. The U.S. has notified the amounts expended by the Bureau to support irrigation programs as non-product specific support to build infrastructure to the WTO. The U.S. has not notified the value of the subsidized irrigation water and services provided to its agricultural producers.

The federal government's direct expenditures on irrigation are not included in the Department of Agriculture's budget. Funds used to support irrigation infrastructure programs are included in the Water and Related Resources Program operated by the Bureau of Reclamation, the total

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416 Department of the Interior, *The Budget for Fiscal Year 2011*, pg 667

417 Gollehon, Noel R., *Water Markets: Implications for the Rural Areas of the West,* Rural Development Perspectives, Vol 14, No. 2, at pg 57

budgetary resources available to support the obligations under this program, which include facility operations, facility maintenance and rehabilitation, water and energy management, fish and wildlife management and land management and development, is reported as follows:[418]

2009	(Actual)	$1,798,000,000
2010	(Estimate)	$881,000,000
2011	(Estimate)	$893,000,000

Irrigation has allowed the U.S. to develop a very profitable agricultural sector on arid land. The USDA ERS has noted the important role that irrigation plays in U.S. agriculture, "Irrigated cropland is important to the U.S. farm economy, accounting for about 49% of total crop sales from just 16% of the Nation's harvested cropland in 1997 (USDA 2001)."[419]

(b) WTO Consistency

Water provided through the irrigation projects confers a significant subsidy on to U.S. agriculture producers. This benefit is provided in the form of water provided at below-market rates. These benefits are primary provided to producers at the local level, which makes determining the specific value of the subsidy very difficult. However, the value of these subsidies was previously estimated by GCS at up to $33,000,000,000.[420]

The irrigation subsidy provided by the U.S. Federal Government through infrastructure support constitutes a part of the overall support provided to U.S. producers and, in fact, is the only portion of this support that is notified to the WTO by the United States.

The irrigation infrastructure provided by the U.S. government was introduced to enable and promote agricultural production in the western desert regions. Agricultural producers in these regions are heavily dependent on government financed and supported irrigation schemes.

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418 Department of the Interior, *The Budget for Fiscal Year 2011*, pg 667

419 Aillery, Marcel and Golleho, Noel, Agricultural Resources and Environmental Indicators, Chapter 2.2, pg 2

420 *WTO Consistency of U.S. and New Zealand Agricultural Practices*, Grey, Clark, Shih and Associates, Limited, July 15, 2003

Without these irrigation projects, agricultural production would either not exist in these regions or would be severely curtailed.

Without the water provided through the irrigation infrastructure, agricultural production in the eleven western states would be severely restricted. Therefore, the provision of subsidized water is trade and production distorting. In many cases, irrigation is the difference between production existing and not. Without this subsidy, there would be little or no production and certainly far less production than currently exists in these states. On this basis, the irrigation subsidy provided, including the amounts expended on infrastructure, must be included in the U.S. AMS.[421]

(c) Program Level

The FY 2011 Department of the Interior Budget Summary reports the following program levels on account of Irrigation Infrastructure:[422]

2009	(Actual)	$1,798,000,000
2010	(Estimate)	$881,000,000
2011	(Estimate)	$893,000,000

421 *WTO Consistency of U.S. and New Zealand Agricultural Practices*, Grey, Clark, Shih and Associates, Limited, July 15, 2003

"Water in its natural state is neither a good nor a service and is not subject to trade obligations…. Only water drawn from its natural state is subject to the rules and obligations in the trade agreements…. Water must be extracted to convert it from a natural resource into a good or service for purposes of the WTO. Government cannot be compelled, by trade obligations, to allow water to be drawn from its natural state, but once it voluntarily allows natural resources to be extracted for commercial purposes, the resulting goods or services will enter the flow of commerce and be subject to trade disciplines. In the present case, the water at issue is a good or service for purposes of the WTO because the United States Government voluntarily decided to allow this water to be drawn from its natural state for use to support agricultural production. This decision, and the subsequent act of drawing the water from its natural state for irrigation or other commercial purpose, converted that water into a good or service for purposes of the WTO."

422 Department of the Interior, *The Budget for Fiscal Year 2011,* pg 667

(d) Allocation to Dairy

This program does not provide benefits exclusively to dairy producers. Consequently, we cannot attribute the entire value of the support provided under these programs to U.S. dairy producers. Therefore, the value of the subsidies and support that benefits dairy production under these programs is attributed on the basis of dairy's share of the total value of U.S. agricultural production. In 2009, all dairy production accounted for 10.7% of total U.S. agricultural production.

Budgetary resources for this program in 2009 were $1,798,000,000. Based on dairy's share of total U.S. agricultural production, the allocation to dairy is $192,386,000.

XVI. Biomass Energy Tax Incentives

(a) Program Description

The U.S. provides support to its agricultural producers through tax incentives that promote the production and use of ethanol as an alternative fuel. For 2009, starting after December 31, 2008, the tax incentive was set at $0.45 per gallon of ethanol[423]. This incentive directly supports feedstocks used in the production of ethanol (which are primarily feed grains such as corn) and, thus, provides indirect support to dairy production.

The ethanol tax incentive was set out in the Transportation Equity Act for the 21st Century, which continued the tax incentive through 2007. The recent JOBS Tax Bill extended the ethanol subsidy program to 2010 and amended the program by introducing a Volumetric Ethanol Excise Tax Credit that is intended to make the incentive program available to a broader range of ethanol producers.

Ethanol is an alcohol that is primarily produced from agricultural products in the U.S. The U.S Renewable Fuels Association listing of existing and planned ethanol producers (updated to January 2009) shows 170 online biorefineries and that the vast majority of producers use corn to produce ethanol. The other feedstocks included: barley, cheese whey, beverage waste, potato waste, waste beer, wheat starch, brewery waste and grain sorghum.[424]

The United States provides support to agricultural production through tax incentives that promote the production and use of ethanol as an alternative fuel. The ethanol in question is produced from agricultural products; the primary feedstock is corn. The incentive provides a subsidy currently set at $0.45 per gallon of ethanol. This tax incentive encourages the production of agricultural commodities with flow through benefits to farmers. Based on the total U.S. consumption of biomass energy in 2009, total expenditures under this tax incentive program

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[423] Excise Taxes (including Fuel Tax Credits and Refunds), Internal Revenue Service, IRS.gov, Departmental Treasury, April 2009

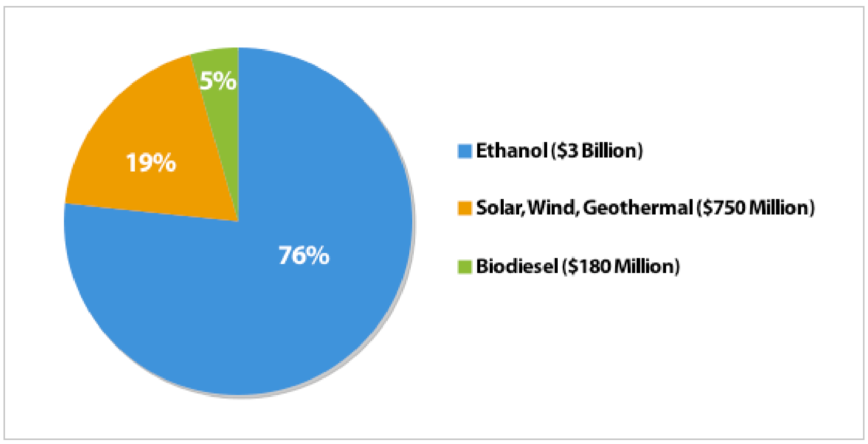
[424] *U.S. Fuel Ethanol Production Capacity,* Renewable Fuels Association, January 2009

amounted to approximately $4.5 billion. All of these expenditures should be included in the U.S. AMS.

Mandated use of ethanol in gasoline in the USA could increase to at least 12 billion gallons by 2012. At current subsidy rates, this will mean an increase in benefits to at least $5.4 billion. Dairy producers use corn. Many grow it both for feed and for off-farm sale. There are benefits to dairy production which, while difficult to calculate, should be captured.

Support to ethanol and biofuels provides direct support to feedstock producers, i.e., growers of feedgrains. Furthermore, Environmental Working Group reports that:

Ethanol Got 76% ($3 Billion) of All Federal Renewable Energy Tax Credits in 2007



The federal bill for ethanol subsidies grows with every gallon of ethanol produced. By 2010, ethanol will cost taxpayers more than $5 billion a year -- more than is spent on all U.S. Department of Agriculture conservation programs to protect soil, water and wildlife habitat.

Now the ethanol industry wants even more. In recent weeks, the corn ethanol lobby has pushed for billions in new federal subsidies as part of the economic stimulus package. Corn growers and ethanol companies are also pressing for dramatic increases in the amount of ethanol Americans will be required to put into their gas tanks—even if it results in worse fuel economy and more engine repairs. Once touted as the energy equivalent of a free lunch, corn ethanol has proved to be an over-hyped and dubious renewable energy option. Ethanol made from corn has extremely limited potential to reduce the country's dependence on imported oil, and current production systems likely worsen greenhouse gas emissions.

Moreover, despite billions in federal subsidies on top of a government mandate that forces motorists to buy ethanol, the industry's financial outlook remains highly unstable. A fleeting few years of windfall profits and breakneck construction of ethanol plants gave rise to talk of "sheikdoms" springing up in the Midwest to rival those in the Middle East and a "rural renaissance" featuring hundreds of thousands of new jobs.[425]

In Texas, a report from the Rice University's Baker Institute for Public Policy concluded that "based on the latest available U.S. GAO data, which is for the year 2008, the U.S. government spent $4 billion in subsidies to replace about 2% of the U.S. gasoline supply. The average cost to taxpayers for these "substituted" traditional gasoline barrels was roughly $82 per barrel, or $1.95 per gallon on top of the gasoline retail price.[426]

> "In the heart of the Corn Belt that August day, Mr. Obama argued that embracing ethanol "ultimately helps our national security, because right now we're sending billions of dollars to some of the most hostile nations on earth." America's oil dependence, he added, "makes it more difficult for us to shape a foreign policy that is intelligent and is creating security for the long term."
>
> Nowadays, when Mr. Obama travels in farm country, he is sometimes accompanied by his friend Tom Daschle, the former Senate majority leader from South Dakota. Mr. Daschle now serves on the boards of three ethanol companies and works at a Washington law firm where, according to his online job description, "he spends a substantial amount of time providing strategic and policy advice to clients in renewable energy."…
>
> "We made a series of mistakes by not adopting a sustainable energy policy, one of which is the subsidies for corn ethanol, which I warned in Iowa were going to destroy the market" and contribute to inflation, Mr. McCain said this month in an interview with a Brazilian newspaper, O Estado de São Paulo. "Besides, it is wrong," he added, to tax Brazilian-made sugar cane ethanol, "which is much more efficient than corn ethanol."[427]

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425 "Ethanol's Federal Subsidy Grab Leaves Little For Solar, Wind And Geothermal Energy", Environmental Working Group, January 2009

426 "Ethanol subsidies are $82 per barrel of replaced gasoline, says incendiary Baker Institute report", Biofuels Digest, January 7, 2010

427 "Obama Camp Closely Linked With Ethanol", By Larry Rohter, The New York Times, June 23, 2008

> "… the country needs an honest assessment of corn ethanol's pluses and minuses, its effect on climate change and food prices and its reliability as a source of income for farmers."[428]

Commentators considering the impact of the biodiesel (which is made from soybeans) program introduced in the JOBS Tax Bill noted that,

> "Based on USDA baseline estimates for future soybean production, over a five-year time period the biodiesel tax provisions could add almost $1 billion directly to the bottom line of U.S. farm income."[429]

A 1997 Report by the CATO Institute reviewing the ethanol tax incentive noted that,

> "the diversion of corn into uneconomic gasohol raises corn prices between 22 cents and 40 cents per bushel."[430]

(b) WTO Consistency

The U.S. fuel ethanol tax incentives are an important form of production incentive and price support to U.S. agricultural producers. The tax incentives do not meet any of the criteria set out in Article 6 or Annex 2 to the Agreement on Agriculture that would allow the U.S. to exclude these subsidies from its AMS. Therefore, the total value of these subsidies must be included in the U.S. AMS and be subject to domestic support reduction commitments.

(c) Program Level

The total expenditures on fuel ethanol under this program can be determined by considering the total amount of fuel ethanol produced and multiplying it by the tax incentive. For 2010, the ethanol tax incentive was set at $0.45 per gallon. Total U.S. production of ethanol in FY 2009

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428 "Fixing Agriculture", The New York Times (Editorial), December 19, 2008

429 *Ethanol and Biodiesel get Tax Boost*, The Corn and Soybean Digest, November 1, 2004

430 *Doug Brandow,* Ethanol Keeps ADM Drunk on Tax Dollars, October 2, 1997

was 10.6 billion gallons[431]. Therefore, the total expenditures on fuel ethanol under this program were $4,770,000,000.

(d) Allocation to Dairy

The ethanol tax incentives provide indirect support to U.S. dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total U.S. agricultural production.

In 2009, U.S. dairy production accounted for 10.7% of total U.S. agricultural production. The total value of the ethanol tax incentive in 2009 was $4,770,000,000. Therefore, the total amount allocated to dairy production for 2009 was $510,390,000. We have assumed the same level or more for 2010.

431 Renewable Fuels Association, 2009 Monthly U.S. Fuel Ethanol Production/Demand, December 2009

PART II

OVERVIEW: PART II – STATE SUBSIDIES

Part II reviews the agricultural support programs maintained at the sub-national level in the U.S. on a state by state basis. While the principal source of support to U.S. Agriculture is the USDA at the federal level, the support at the sub-national level, which includes subsidized water for irrigation, also provides very substantial benefits to agriculture and to dairy production. Many State programs involve local delivery of USDA programs and funding. These federal programs were addressed in Part I. States also provide infrastructure, services and support which appear, in many cases, to be normal functions of government. We have listed details on selected programs under each of the individual state sections to illustrate what the state does for agriculture.

Based on our research and analysis, we estimate that for 2009, total U.S. state and local government support to dairy production amounted to US$2,719,844,541 or at least US$1.44/cwt. In Canadian dollars, using the 2009 average U.S. exchange rate for the Bank of Canada, this support is approximately $3.74/hl.

Funding of State programs requires budgetary resources over and above those examined in Part I. Like their USDA counterparts, many of the State Governments' programs should be included in the U.S. AMS. These programs provide direct support to agricultural producers that reduce their costs and promote or influence agricultural production. These programs include those which provide: preferential financing, loan guarantees, farmland security, grants and tax incentives. Publicly available information on such programs (which varies considerably from state to state) is addressed in this part of the study.

State Government support to agricultural producers generally falls into the category of general services and infrastructure support. It includes inspection services, certification and grading services, generic market promotion services, animal health, pest management, education and training, environmental and conservation services, as well as advisory services. Many of these programs involve delivery at the state level of USDA funding and services, often on a cost-shared basis. While the costs and benefits of some of these programs would not likely be subject to discipline in a countervailing duty investigation, and would not be included in the U.S. AMS, they provide support to farmers and ranchers which is important in the aggregate. Indeed, this support is far more extensive than exists in the vast majority of WTO member countries. Therefore, these programs have been included in the overall estimate of State support and allocated to dairy producers based on methodology discussed below.

In addition, state and local governments provide very extensive and important support through irrigation subsidies in the form of below-market and below-cost price water provided for agricultural use; we have not been able to analyze the extent of benefits for subsidized electricity – often at less than 10% of commercial rates, to operate the irrigation systems.[432]

(i) State and Local Government Support

We have estimated the total value of agricultural subsidies and support provided at the sub-national level in 2009 to be $3,216,099,665.

Generally, information available for programs and budgets at the state level is much less comprehensive and transparent than the information published by the USDA, the Department of the Interior and the OMB. Further, the value of tax incentives, or revenue foregone, is not included in state agricultural budgets and we were not able to estimate their value.

We consider that the information available to us does not reflect the total value of support provided to agricultural production through various sub-national Departments and Agencies. There are also subsides to agricultural fuel,[433] electricity and water which are revenue forgone instead of expenditures or cash transfers. Nor have we been able to address motor fuel

[432] The Environmental Working Group, Taxpayers Guarantee Central Valley Farms Water Through a Subsidy Worth Up to $416 Million per Year, December 2004, http://www.ewg.org/reports/watersubsidies/references.php

[433] “The huge lies in the U.S. notification of its agricultural trade-distorting domestic supports from 2002 to 2005”, Jacques Berthelot, Solidarité, January 3, 2008

incentives at the state level for use of E-85[434] and other ethanol blends. Therefore, we believe that our estimates of subsidy and support levels understate the total value of support provided to agricultural producers at the subnational level. Our review of publicly available information and analysis suggests that expenditures may not be accurately or completely reported in all states.

(ii) Irrigation Subsidies

While certain expenditures on irrigation infrastructure are reported at the federal level, by far the greatest benefits are provided at the state and local level through the provision of below-cost and below-market priced water for irrigation purposes. The total value of irrigation subsidies provided by state and local government has been estimated at between $10,000,000,000 and $33,000,000,000. Selecting the mid-point in this range, the total value of support provided through irrigation subsidies at this sub-national level is estimated to be $21,500,000,000. This is a conservative estimate – our analysis indicates that water usage increased about 12% since the base period used in the 2003[435] study.

(iii) Support to Dairy Production

We have relied, to the extent that it is available, on 2009 data to determine the value of state and local government support to U.S. dairy producers. We selected 2009 because it provides the most recent actual budgetary expenditure and program level information available for all states. The total share of dairy production in total agricultural production for individual states for 2009 was used, to ensure consistency with the 2009 budgetary expenditures.

Accordingly, we estimate that the total value of support for U.S. dairy in 2009 is the sum of the total value of support provided under dairy specific state programs plus the total value of non-

434 For example: "Several states have established incentives for stations to convert or install retail fuel dispensing equipment for ethanol blends. These incentives can be in the form of a grant, tax credit, or a loan." (Blend Your Own, http://www.byoethanol.org/incentives/state-incentives.html)

435 Ibid.

dairy specific state programs allocated to dairy on the basis of the share of individual state dairy receipts by the total individual state farm receipts.[436]

The total value of support provided by state and local governments in 2009 is estimated to be $3,216,099,665. The total value of direct state and local government support to dairy production and indirect support allocated to dairy production is $419,344,541.

Support provided through irrigation subsidies is direct but non-dairy-specific support which is also allocated on the basis of dairy's share of the total value of state agricultural production for those states which are the principal beneficiaries of the irrigation programs. In 2009, we estimate that the total value of irrigation subsidies provided to agriculture by state and local governments was $21,500,000,000. On this basis, the total amount of irrigation subsidies allocated to dairy production in 2009 is $2,300,500,000.

Therefore, we estimate that the total value of support to dairy production provided by state and local governments is $2,719,844,541 - the aggregate of support to dairy production provided by state and local governments and through irrigation subsidies provided by state and local governments.

In 2009, total U.S. milk production was 189,320,000,000 lbs[437] or 1,893,700,000 cwt. Therefore, total state and local government support per cwt was approximately $1.44. Using the U.S. dollar 2009 average exchange rate to the Canadian dollar provided by the Bank of Canada, which was $1.142, the U.S. federal support per hundredweight in Canadian dollars was $1.65CAD.

Converted to hectoliters the value of the subsidies in Canadian dollars was $3.74CAD/hl.

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[436] USDA Economic Research Service, Data Sets, Top Commodities, Exports and Countries

[437] National Agricultural Statistics Service (NASS): Milk Production

PART II

The following table summarizes on a state by state basis, support to agriculture in 2009, and the allocation to dairy products:

U.S. State Support to Agriculture 2009				
Section	**State**	**Support to Agriculture 2009**	**Allocation to Dairy (%) 2008**	**Allocation to Dairy (U.S. $) 2009**
1.	Alabama	$38,803,757	0.9%	$349,234
2.	Alaska	$2,105,900	4.5%	$94,766
3.	Arizona	$12,273,200	22.0%	$2,700,104
4.	Arkansas	$56,302,806	0.5%	$281,514
5.	California	$299,120,000	19.1%	$57,131,920
6.	Colorado	$39,112,901	8.2%	$3,207,257
7.	Connecticut	$27,340,000	12.1%	$3,308,140
8.	Delaware	$15,673,300	1.9%	$297,793
9.	Florida	$393,931,082	5.8%	$20,527,998
10.	Georgia	$53,633,955	3.8%	$2,038,090
11.	Hawaii	$38,828,670	1.0%	$388,287
12.	Idaho	$35,889,200	32.7%	$11,716,148
13.	Illinois	$110,918,300	2.3%	$2,551,121
14.	Indiana	$9,208,112	6.4%	$589,319
15.	Iowa	$46,345,995	3.2%	$1,483,072
16.	Kansas	$31,853,521	3.3%	$1,051,166
17.	Kentucky	$31,375,500	4.9%	$1,537,400
18.	Louisiana	$115,781,133	2.1%	$2,431,404
19.	Maine	$6,690,034	18.3%	$1,224,276
20.	Maryland	$115,261,391	9.9%	$11,410,878
21.	Massachusetts	$17,916,357	8.9%	$1,594,556
22.	Michigan	$104,591,600	22.5%	$23,533,110
23.	Minnesota	$48,394,000	10.5%	$5,081,370
24.	Mississippi	$112,619,372	1.2%	$1,351,432

U.S. State Support to Agriculture 2009				
Section	**State**	**Support to Agriculture**	**Allocation to Dairy (%)**	**Allocation to Dairy (U.S. $)**
25.	Missouri	$56,488,265	3.5%	$1,977,089
26.	Montana	$29,345,546	2.0%	$586,911
27.	Nebraska	$18,725,232	1.2%	$224,703
28.	Nevada	$16,055,433	16.3%	$2,617,036
29.	New Hampshire	$4,191,000	27.7%	$1,160,907
30.	New Jersey	$22,463,000	2.7%	$606,501
31.	New Mexico	$6,452,200	43.7%	$2,819,611
32.	New York	$109,109,000	49.1%	$53,572,519
33.	North Carolina	$59,718,202	1.9%	$1,134,646
34.	North Dakota	$89,774,801	1.0%	$897,748
35.	Ohio	$49,805,000	12.6%	$6,275,430
36.	Oklahoma	$106,169,000	3.7%	$3,928,253
37.	Oregon	$41,215,177	9.3%	$3,833,011
38.	Pennsylvania	$226,766,000	34.3%	$80,674,738 *
39.	Rhode Island	$47,558,018	5.9%	$2,805,923
40.	South Carolina	$15,688,554	2.9%	$454,968
41.	South Dakota	$44,349,937	4.2%	$1,862,697
42.	Tennessee	$91,199,100	6.1%	$5,563,145
43.	Texas	$132,922,915	8.2%	$10,899,679
44.	Utah	$27,307,700	21.1%	$5,761,925
45.	Vermont	$15,123,437	72.6%	$10,979,615
46.	Virginia	$59,640,481	12.4%	$7,395,420
47.	Washington	$64,823,500	12.2%	$7,908,467
48.	West Virginia	$36,073,073	6.4%	$2,308,677
49.	Wisconsin	$100,972,400	46.2%	$46,732,582 **
50.	Wyoming	$20,319,659	2.4%	$487,672
	Total	**$3,256,226,716**		**$419,350,228**

*Please refer to Section 38 – Pennsylvania for details on dairy allocation calculations.
**Please refer to Section 49 – Wisconsin for details on dairy allocation calculations.

PART II - ALABAMA

1. ALABAMA

Agricultural producers in Alabama benefit from subsidies and support provided by the Department of Agriculture and Industries, the Alabama Center Board and the Agricultural and Conservation Development Commission. The aggregate subsidies and support provided through these bodies is reported as follows:

2008-2009 (Actual)[440]	$38,803,757
2010 (Budgeted)[441]	$44,101,042

The State of Alabama administers the following programs:

- Farmers Market Authority
- Alabama Funds Agriculture Efficiency Program
- Generation Loan Program
- AADA Experimental Vegetable Production Irrigation Project
- AADA Commodity Barn Loan Program, AADA Well Pilot Program

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by these agencies do not provide support exclusively to dairy. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis. Total support provided to agricultural producers by Alabama in 2009 was $38,803,757, and the percentage allocation to dairy for Alabama in 2008 was 0.9%. Therefore, the total amount of support and subsidies allocated to dairy production in 2009 is $349,234.

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[440] State of Alabama General Fund, Fiscal Year 2008-2009 Appropriations, pg 1
[441] State of Alabama General Fund, Fiscal Year 2010 Appropriations, pg 1

2. ALASKA

Agricultural producers in Alaska benefit from subsidies and support provided by the Division of Agriculture of the Department of Natural Resources. The budget for the Division of Agriculture is reported as follows:[442]

FY 2009 (Allocations)	$2,105,900

The State of Alaska administers the following programs:

- Agricultural Revolving Loan Fund (ARLF)
- Agricultural Land and Sales Management
- Inspection Services
- Marketing Services
- North Latitude Plant Material Center

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Division of Agriculture do not provide support exclusively to dairy. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

[442] Laws of Alaska 2009, an Act making appropriations for the operations any loan program expenses of State Government, pg 33

Actual expenditures by the Division of Agriculture in 2009 were $2,105,900, and the percentage allocation to dairy for Alaska in 2008 was 4.5%. Therefore, the total amount allocated to dairy production for 2009 is $94,766.[443]

On examining the programs administered by the Department, which can involve loans to nearly the same value as the budget, we consider that our methodology understates both total expenditures and benefits to dairy. But this is all the information available.

[443] We note that in 2007-8, there were reports of loans and grants in excess of $2 million to a single dairy in Alaska. This was highly publicized as “Dairygate” and was tied to the Administration of former Alaska Governor Sarah Palin. Source information was a number of blogs. We have not included these reports in our estimates.

Agricultural Revolving Loan Fund

(a) Program Description

The Agricultural Revolving Loan Fund is a program established to promote the development of agriculture as an industry through moderate interest rate loans.

Individuals may borrow up to $1,000,000 to finance annual operating expenses, to purchase equipment or livestock, to purchase and install irrigation equipment, to build and equip processing facilities and to finance land clearing activities.[444]

The program describes the loans as being made at moderate interest rates. The loan terms, including the payment terms, are made on the basis of the applicant's ability to service the loans.[445]

(b) WTO Consistency

The provision of loans at moderate rates through this program confers a subsidy on eligible recipients. As the purpose of the loan program is to promote the development of agriculture in Alaska, the loans are intended to have trade and/or production distorting effects. Therefore, the value of the subsidy provided under this program should be included in the U.S. AMS.

[444] *"Financing for Alaska Agriculture", Agricultural Revolving Loan Fund*, Alaska Department of Natural Resources, Division of Agriculture, www.dnr.state.ak.us/ag/ag_arlf.htm

[445] Ibid.

(c) Expenditures

The Allocation Detail from the FY 2009 Appropriations Act for the Department of Natural Resources reports the following as the total allocation for the Agricultural Revolving Loan Program Administration:[446]

2009 (Allocations)	$2,480,000

(d) Allocation to Dairy

This program does not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. As we noted in Part I, this averaging technique ignores the fact that many U.S. producers do not benefit from subsidies – so the averaging technique is likely to understate benefits to dairy producers.

The percentage allocation to dairy for Alaska in 2008 was 4.5%. Actual expenditures by Alaska under this program in 2009 were $2,480,000. Therefore, the total amount allocated to dairy production for 2009 is $111,600.

[446] Laws of Alaska 2009, an Act making appropriations for the operations any loan program expenses of State Government, pg 33

PART II - ALASKA

Agricultural Land Management

(a) Program Description

The objective of the Agricultural Land Management Program is to make agricultural land available for sale, lease or permits as funding allows. To achieve this objective, an inventory of unsold lands classified for agriculture is maintained for future sales. These sales can be made subject to development requirements and conservation plans.[447]

(b) WTO Consistency

Based on the information available, it appears that this program is intended to protect agricultural land from commercial or residential development and ensure its future use in agricultural production. Consequently, it appears that this program is intended to make this land available for farming at below market rates (i.e., at below its value for other uses). Therefore, the provision of land at below market rates for agricultural production confers a subsidy on the recipient. The program will apparently reduce the recipient's costs and will also encourage production thereby having trade and/or production distorting effects. Therefore, the value of the subsidies provided under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation to Dairy

The budgetary information available from the State of Alaska is not sufficiently detailed to allow us to determine total expenditures under this program or to determine an appropriate allocation to dairy.

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[447] *Agricultural Land & Sales Management*, Department of Natural Resources, Division of Agriculture, www.dnr.state.ak.us/ag/ag_sales.htm

3. ARIZONA

The Arizona Department of Agriculture operates a broad range of programs and provides services that support agricultural production and producers. The Budget for the Department of Agriculture reports the following expenditures on account of all Departmental programs: [448]

2009 (Actual)	$12,273,200
2010 (Estimate)	$13,353,100
2011 (Estimate)	$13,353,100

The State of Arizona administers the following programs:

- Food Safety and Quality Assurance
- Non-Food Quality Protection Program
- Animal Health and Welfare Program
- Pest Exclusion and Management
- Native Plant and Cultural Resources Protection
- Environmental Services Program
- State Agricultural Laboratory
- Agricultural Consultation and Training
- Commodity Development and Promotion

Many of these programs are state level vehicles for delivering USDA funding and services. We have not addressed any of these programs in the body of this report due to the paucity of information available, and in order to avoid repetition.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows

448 FY 2011 Baseline Summary, January 2010, pg 21

us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Actual expenditures by the Department of Agriculture in 2009 were $12,237,200, and the percentage allocation to dairy for Arizona in 2008 was 22%. Therefore, the total amount allocated to dairy production for 2009 is $2,700,109.

4. ARKANSAS

Agricultural producers in Arkansas benefit from support provided through a range programs operated by various government agencies. Appropriations for these boards are described in the State of Arkansas Actual Expenditures Fiscal Year 2009 as follows:

	2009 [449]
Beef Council	$881,208
Catfish Promotion Board	$94,471
Corn and Grain Sorghum Promotion Board	$598,492
Soybean Promotion Board	$5,095,616
Wheat Promotion Board	$357,874
Total	**$56,302,806** [450]

The State of Arkansas administers the following programs:

- Beginning Farmer Loan Program
- Capital Access Program
- ADFA Bond Guaranty Program
- Export Finance Program
- Farm Mediation
- Agricultural Cooperative Loan Program
- Aquaculture Development Program
- Arkansas Agricultural Product Market
- Arkansas Livestock and Poultry Commission
- Arkansas Livestock Inspection and Disease Control Program
- Arkansas Plant Board Seed Division
- Arkansas Plant Industry Division
- Seed Certification
- Arkansas Dairy Stabilization Grant

[449] State of Arkansas Actual Expenditures, Fiscal Year 2009, pg 2

[450] Ibid., pg 4

PART II - ARKANSAS

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by these agencies do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis. In this case, much of the support is dedicated to non-dairy products. But dairy producers will benefit from several activities.

Appropriations for programs administered by these agencies in 2009 were $56,302,806, and the percentage allocation to dairy for Arkansas in 2008 was 0.5%. Therefore, the total amount allocated to dairy production for 2009 is $281,514.

PART II - ARKANSAS

Agricultural Cooperative Loan Program

(a) Program Description

This program draws on a $500,000 revolving fund to finance facilities and equipment to stimulate crop diversification and to help "limited resource farmers' make a living while farming small acreages. Loans may be made to cooperatives, non-profit corporations and non-profit associations. The objective is to assist "limited resource farmers" to produce high value crops.[451]

(b) WTO Consistency

Based on the information available, the financing provided under this program confers a subsidy on the recipient "limited resource farmers". As the financing is provided to allow the recipient "limited resource farmers" to produce agricultural products, the program is intended to have trade and/or production distorting effects. On that basis, expenditures under this program should be included in the U.S. AMS.

(c) Expenditure and Allocation to Dairy

The budgetary information available from the State of Arkansas does not provide sufficient detail to allow us to determine expenditures under this program.

[451] *Gene Eagle, Arkansas Development Finance Authority*, letter to National Council of State Agricultural Finance Programs

5. CALIFORNIA

Agricultural policies and programs and primarily delivered by the California Department of Food and Agriculture. The total funding for all programs, as set out in the Governor's Budget/Proposed Budget Detail is reported as follows:[452]

2009	$299,120,000
2010	$328,255,000
2011	$366,690,000

The State of California administers the following programs:

- Loan Guarantee Program
- Farm Loan Program
- Intermediary Relending Loan Program
- SBA Micro Loan Program
- B & I / NADBANK
- Certified Development Company
- SBA 504 Certified Development Company
- Rice Straw Tax Credit Program
- Rice Straw Utilization Grant Program
- Loans for Socially Disadvantaged Persons
- Milk Producers Security Trust Fund
- Feed, Fertilizer and Livestock Drugs Program
- Fertilizer Research and Education Program
- Grain & Commodity Inspection Program
- Safe Animal Feed & Education Program
- Dairy Marketing Branch
- Animal Care Program
- Animal Health and Food Safety Services
- Cooperative State-Federal Industry Programs
    - Bovine Brucellosis
    - Bovine Tuberculosis
    - Johne's Disease
    - Scrapie in Sheep and Goats
    - Pseudorabies
    - Swine Brucellosis
    - National Poultry Improvement Plan (NPIP)

[452] *California Department of Food and Agriculture Budget FY 2010-2011*, pg GG 1

- Biologics Program
- Dairy Quality Assurance Program
- Egg Quality Control Program
- Livestock Identification Program
- Agricultural Education Program
- Agricultural Nutrition Programs
- Emergency Preparedness Support Unit
- Food Safety and Security
- California Grown Campaign
- California Institute for the Study of Specialty Crops
- Marketing and Trade Policy
- Pest Detection Emergency Projects
- Research and Technology Grants
- Sustainable Agriculture Research
- Bay-Delta Program
- Disaster Preparedness
- The Statewide Drainage Management Program/San Joaquin Valley Drainage Implementation Program
- Agricultural Export International Trade
- California Certified Farmers Market Program
- Vertebrae Pest Management
- Weed Pest Management
- Biological Control Program
- Pest and Disease Prevention Grants
    - Citrus Peelminer ControlCross Commodity Approach to Citrus Peelminer Management
    - Controlling Root-Knot Nematode Evaluation of Mycorrhiza-based Products for Control of Root-knot Nem
    - Databases on Citrus Pest Management Practice
    - Environmentally Sound Agricultural Practices Inc. Organic Growing
    - Exotic Fruit Fly DNA Analysis
    - Management of Verticillium Wilt of Lettuce, A New and Emerging Threat in California
    - Methyl Bromide Alternatives on Strawberries
    - Olive Fruit Fly Infestation Crisis in California
    - Quarantine Treatment Research and Development
    - Trace Element Analysis and Database Center for Analytical Chemistry
- Pierce’s Disease Control Program
- Pink Bollworm Program
- Red Imported Fire Ant Program
- Avocado Inspection Program
- Forest Stewardship Program
- Organic Program
- Wine Grape Inspection Program

PART II - CALIFORNIA

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

While the Department of Food and Agriculture has several programs which support exclusively to dairy producers, there is not enough information available to calculate these benefits. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Budgetary funding on account of all California food and agriculture programs in 2009 was $299,120,000, and dairy accounted for 19.1% of the value of production for California in 2008. Therefore, the total amount allocated to dairy production for 2009 is $57,131,920.

It is important to note that agricultural production in California is one of the major beneficiaries of irrigation subsidies which are addressed separately.

PART II - CALIFORNIA

Dairy Pricing

(a) Program Description

The Dairy Marketing Branch of the Department of Food and Agriculture regulates the price of dairy products with the result that California provides an export subsidy on the export sale of specified dairy products.

California establishes different prices for dairy products, in part, depending on where they are sold, including sales outside the state, outside the contiguous 48 states and outside the U.S. Prices are calculated on the basis of five classes of milk (1, 2, 3, 4a, and 4b). Different prices are also set for Northern and Southern California.

Some products are sold at different prices depending on whether or not they are sold for export. Consequently, cottage cheese, soft fresh cheese, sour cream, light sour cream, yogurt and yogurt drink fall under Class 4a if they are intended for export sale, otherwise they fall under Class 2.[453]

(b) WTO Consistency

California's administered price system requires that certain products be sold on the export market at below the set domestic price. By requiring that these products be sold, for export, at a price below the prevailing domestic price, California is providing an export subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures.

A subsidy is a financial contribution by government that confers a benefit on the recipient. In this case, purchasers of certain exported dairy products receive the benefit of purchasing those products at a price below the prevailing domestic market price. As the Dairy Board establishes the domestic price and export price of those products, benefit conferred on the purchaser in the form of lower prices is conferred by government. Thus, the administered pricing confers a

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453 Classification of Dairy Products

subsidy. The subsidy is an export subsidy because it is only provided on the export sale of the specific products.

The total value of the export subsidy is the difference between the domestic and export price of the specific product multiplied by the total volume of exported products. This amount, which is not tied to the budgetary allocation to operate the pricing mechanism, must be notified to the WTO and counted against the U.S. obligation on total export subsidies.

(c) Expenditures and Allocation to Dairy

The total value of the export subsidy provided through the pricing program is not tied to the budgetary allocation to operate the pricing program administration. Rather, the total value of the export subsidy provided is the difference between the domestic and export price of the specific product multiplied by the total volume of exported products. This amount cannot be readily calculated from information available to us. However, the total value of this export subsidy must be allocated to dairy producers.

PART II - CALIFORNIA

Intermediary Relending Loan Program

(a) Program Description

This program finances business facilities and community development projects in rural areas. The program is financed by USDA Rural Development Fund loans that are issued to public or non-profit intermediaries, who then relend the funds to eligible recipients for business facilities or community development. The intermediaries are to establish a revolving loan fund, so that loan collections can be used for other eligible recipients. Interest income and fees are used for the operating expenses of the program[454]

(b) WTO Consistency

These loan programs were discussed in Part I. This program recycles money from previous loans. It is not clear to what extent the program is trade or production distorting, but financing business facilities should arguably be counted against the U.S. AMS.

(c) Expenditures and Allocation

The information available, and the nature of this program, do not permit us to determine the level of resources available, nor to make an allocation to dairy.

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454 *Intermediary Relending Program*, California Community Economic Revitalization Team

PART II - CALIFORNIA

Loans for Socially Disadvantaged Persons

(a) Program Description

The purpose of this program is to provide guaranteed loans to socially disadvantaged people wanting to buy and operate family-sized farms. This program is funded by the Farm Service Agency (FSA). A socially disadvantaged farmer or rancher is defined to be part of a group, "whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of the group without regard to their individual qualities."[455] Socially disadvantaged groups are women, African Americans, American Indians, Alaskan Natives, Hispanics, and Americans and Pacific Islanders.[456]

(b) WTO Consistency

There are similar programs in a number of states. These loans provide benefits to recipients and are designed to promote production. Therefore, any expenditures under this program (and similar programs delivered in other states) should be included in the U.S. AMS.

(c) Expenditures and Allocation

This program expends USDA funding which has been addressed in Part I. The information available to us does not permit determination of administrative and program delivery costs, and this precludes any allocation to dairy.

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455 *Loans for Socially Disadvantaged Persons*, California Department of Food and Agriculture

456 Ibid.

PART II - CALIFORNIA

Milk Producers Security Trust Fund

(a) Program Description

The Milk Producers Security Trust Fund was created by state law in 1987 to protect producers from handler payment defaults. The Fund contains a sufficient amount of money to cover 110% of one month's milk purchases by the milk handler with the largest monthly producer payment obligation.[457]

(b) WTO Consistency

This program arguably encourages production as the state is carrying credit risk for the producer. Expenditures under the program should be included in the calculation of the U.S. AMS.

(c) Expenditures and Allocation to Dairy

The budgetary information available from the State of California is not sufficiently detailed to allow us to determine total expenditures under this program which, if it could be determined, would be allocated 100% to dairy producers.

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457 *Milk Producers Security Trust Fund*, California Department of Food and Agriculture

PART II - CALIFORNIA

Dairy Marketing Branch

(a) Program Description

The Dairy Marketing Branch (DMB) promotes, fosters and encourages sound production and marketing of milk that reflect market conditions by resolving critical policy issues such as manufacturing cost allowances, yields, and other adjustment factors in milk pricing, market price fluctuations, the formation of monopolies, and law enforcement. The Branch is organized into five units, each of which concentrates on a specific area of work that contributes to administration of the Plans. The DMB's five units are Cost of Production, Manufacturing Cost, Enforcement, Statistics and Economics.[458]

(b) WTO Consistency

This would appear to be a Government service/support function, rather than a program. However, it does provide important support to dairy farmers in California. It would appear that based on the information available, the activities of this Branch are intended to provide price and income support to dairy producers. To the extent this is normal government infrastructure, it would be difficult to argue, based on current rules that it is WTO inconsistent, or must be included in the U.S. AMS. There is not sufficient information available to argue otherwise.

(c) Expenditures and Allocation to Dairy

The budgetary information available from the State of California is not sufficiently detailed to allow us to determine in a specific way benefits to dairy producers resulting from these activities and support.

[458] *Dairy Marketing Branch*, California Department of Food and Agriculture

PART II - CALIFORNIA

Dairy Quality Assurance Program

(a) Program Description

The goal of this program is to develop a dairy quality assurance program for California dairies. Three components were identified for the California Dairy Quality Assurance Program (CDQAP): environmental stewardship, food safety, and animal care and welfare. The California Department of Food and Agriculture provides technical assistance in all three-component areas of the CDQAP.[459]

(b) WTO Consistency

This program would appear to be a normal function of government. We consider that based on current rules and interpretations of the Agreement on Agriculture, the expenditures to implement this program would not be part of the U.S. AMS.

(c) Expenditures and Allocation to Dairy

The budgetary information available from the State of California is not sufficiently detailed to allow us to determine the benefits to dairy producers resulting from this Departmental technical assistance.

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[459] *Dairy Quality Assurance Program*, California Department of Food and Agriculture

PART II - COLORADO

6. COLORADO

The total budgetary appropriations on behalf of Agricultural programs administered by Colorado were reported as follows:

FY 2008-2009 (Appropriation)	$39,050,930[460]
FY 2009-2010 (Appropriation)	$39,112,901[461]

The State of Colorado administers the following programs:

- Agricultural Chemicals and Groundwater Protection Program
- Apiary Program
- Beginning Farmer Program
- Biological Pest Control Program
- Chemigation Program
- Colorado Commodity Loans
- Colorado Direct & Counter-Cyclical Program
- Farm Loan Program
- Grower Research and Education Grants
- Noxious Weed Management Program
- Nursery Program
- Organic Certification Program
- Pesticide Applicator Program
- Pesticide Registration Program
- Phytosanitary Certification Program
- Colorado Proud Program
- Rodent-Predator Control
- Seed Program
- Specialty Crops Program
- Value Added Processing Program
- Weed Free Forage Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

460 State of Colorado Joint Budget Committee Fiscal Year 2009-2010 Appropriation Report, pg 15
461 Ibid.

PART II - COLORADO

Colorado’s expenditures and appropriations in support of agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy’s total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Colorado’s appropriations on account of all agricultural programs in 2009 were $39,112,901, and the percentage allocation to dairy for Colorado in 2008 was 8.2%. Therefore, the total amount allocated to dairy production for 2009 is $3,207,757.

PART II - COLORADO

Value Added Processing Program

(a) Program Description

This program issues tax exempt bonds for development of agricultural processing facilities for agricultural processors. [462]

(b) WTO Consistency

There is very little information on this program, but it would appear to be designed to facilitate and encourage production. Tax exempt bonds confer benefits both on those holding the bonds, and those whose projects benefit from much lower cost financing. Such bonds are a very popular vehicle in the USA for encouraging development and employment. They may be used to finance the building assets ranging from hockey arenas to auto assembly plants to dairy processing plants.

(c) Expenditures and Allocation

The benefits of these bond issues are to those purchasing the bonds, revenue forgone by government as the bonds are tax exempt. Farmers will benefit through lower cost investment capital. There is insufficient information available to permit us to calculate the overall benefits under this program or the benefits to dairy processors or producers.

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[462] *Jim Rubingh, Value Added Processing Program*, letter to National Council of State Agricultural Finance Programs

7. CONNECTICUT

Agricultural producers in Connecticut benefit from programs administered by the Connecticut Department of Agriculture and the Agricultural Experiment Station. The Budget-in-Brief for the Department of Agriculture reports the following as total funds available to the Department:[463]

2008-2009	(Estimate)	$16,399,000
2009-2010	(Requested)	$16,650,000

The Budget-in-Brief for the Agricultural Experiment Station reports the following as total funds available to the Department:[464]

2008-2009	(Estimate)	$10,941,000
2009-2010	(Requested)	$11,905,000

The State of Connecticut administers the following programs:

- Farmland Preservation Program
- Scrapie Eradication Program
- Agricultural Experiment Station
- Aquaculture Business Development and Assistance
- Connecticut Grown Program
- Dairy Farms of Distinction Program
- Export Assistance Program
- Farm Reinvestment (Enhancement) Grant Program
- Farm Sales Tax
- Farm Waste Management Grants
- Farmers' Market Program
- Sales Tax Exemption for Farmers
- Specialty Foods Assistance
- Tax Exemption for Farm Machinery

463 *Budget-in-Brief 2009-2011*, pg 39
464 Ibid., pg 40

PART II - CONNECTICUT

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few programs or activities for specific consideration throughout this Part for illustrative purposes – and in some cases to identify supplementary support.

The Department of Agriculture Budget and the Agricultural Experiment Station do not provide sufficient detail support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Total funding available to the Department of Agriculture and the Agricultural Experiment Station in 2008-2009 was $27,340,000, and the percentage allocation to dairy for Connecticut in 2008 was 12.1%. Of this total, therefore, the total amount allocated to dairy production for 2008 is $3,308,140.

PART II - CONNECTICUT

Farmland Preservation Program

(a) Program Description

The mission of the Farmland Preservation Program is to preserve farmland soils by acquiring the development rights on farms in farm communities.

The collective goal for the State is to preserve 130,000 acres of farmland, with 85,000 in cropland. In 2008 & 2009, 40 farms comprised of 4,228 acres for $23,723,281 were negotiated and approved for preservation.

Since inception of the Program, development rights have been acquired, or approved for acquisition, on 268 farms totalling 35,518 acres by the State with help of the agricultural community and private & public partner organizations.[465]

(b) WTO Consistency

Payments made under this program should be included in the U.S. AMS. The payments, which are based on the notional development value of the land, ensure that the preserved agricultural land remains in production and can be used by the producers for any purpose. The fact that the preserved land cannot be used for non-agricultural uses indicates that it will continue to produce agricultural products. Consequently, payments under this program represent direct payments to producers specifically intended to ensure continued agricultural production. Thus, the payments may not be excluded from the U.S. AMS.

[465] 2009 Annual Report Summary, *Farmland Preservation Program*, Connecticut Department of Agriculture, pg 1 of 2

(c) Expenditures

Total expenditures under Farmland Preservation Program are reported as follows:[466]

2008 – 2009	$23,723,281

(d) Allocation to Dairy

The Farmland Preservation Program does not provide support exclusively to dairy production. However, supporting fluid milk production is clearly an objective of the program; as noted above, it is intended that the preserved land base will enable Connecticut to produce at least 50% of its fluid milk needs.

Based on the information available, we cannot determine the actual expenditures made in support of dairy farms under this program. However, because one of the objectives of the program is to produce at least 50% of Connecticut's fluid milk needs on preserved land, it would be reasonable to assume that expenditures made on account of dairy production under this program are greater than dairy's share of the total value of state agricultural production of 12.1% for Connecticut. This assumption is also supported by the fact that, of the 130,000 acres that will be preserved under this program, 85,000 acres will be cropland. In light of these figures, we believe that it is reasonable to assume that at least 25% of the program expenditures are made on account of dairy production. Based on this assumption, we estimate that of the $23,723,281expended in 2008 and 2009, $5,930,820.25 is provided in support of dairy production.

466 Ibid.

PART II - CONNECTICUT

Farm Reinvestment (Enhancement) Grant Program

(a) Program Description

The Farm Reinvestment (Enhancement) Grant Program provides grants to eligible producers for capital enhancement of farms. The purpose of the program is to ensure a viable agriculture industry. To qualify for funding, a farmer must apply for a grant, attend a one-day information session and match or exceed the amount of the grant provided.

Any grants provided through this program must be used for projects defined as capital fixed assets with a life expectancy of ten years or more. Grants may be used to expand existing agricultural facilities or to diversify or expand into new production areas.[467]

(b) WTO Consistency

Any grants provided to eligible farmers under this program must be included in the U.S. AMS. These funds are intended to ensure a viable agriculture industry through the development of fixed capital assets that are directly related to existing production or to expanded production. Consequently, the grants provided are intended to have production and/or trade distorting effects.

(c) Expenditures and Allocation to Dairy

The budgetary information available from the Government of Connecticut is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[467] *Farm Reinvestment (Enhancement) Grant Program,* Connecticut Department of Agriculture

PART II - CONNECTICUT

Tax Exemption for Farm Machinery

(a) Program Description

All farm machinery, except specific motor vehicles, to the value of $100,000 and any horse or pony which is actually and exclusively used in farming, is exempt from local property taxation. Only one exemption is allowed for each farmer, group of farmers, partnership or corporation for each assessment year.[468]

Any municipality may provide an additional exemption from property tax for machinery to the extent of an additional assessed value of $100,000.[469]

This is an interesting area of subsidization. In many states (indeed, in Canadian provinces) motor vehicle fuel is tax exempt for farm use. Indeed, in the current live swine CVD investigation by the U.S. Department of Commerce, it was alleged that the exemption in Saskatchewan was a countervailing subsidy. We have not attempted to capture these farmer fuel tax exemptions in this study.

(b) WTO Consistency

The support provided through the Tax Exemption program constitutes a subsidy, in the form of foregone revenue, for purposes of Article 1.1(a)(1)(ii) of the WTO Agreement on Subsidies and Countervailing Measures. As the apparent purpose of the tax exemption is to provide an incentive to the purchase of farm equipment, it appears that the exemption will result in increased production and, consequently, should have trade and/or production distorting effects. In these circumstances, the domestic support provided through this tax exemption should be included in the U.S. AMS.

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468 *Connecticut General Statutes,* Sec. 12-91(a)
469 Ibid., Sec. 12-91(b)

(c) Expenditures and Allocation to Dairy

Based on the information available, it is clear that the tax exemption is available to all Connecticut farmers, including dairy farmers. However, as the program operates as a tax exemption rather than a grant program, budgeted expenditures are not available.

PART II - CONNECTICUT

Dairy Farms of Distinction Program

(a) Program Description

The Dairy Farms of Distinction program was started in 1985 as a cooperative effort between the Department of Agriculture, milk buyers and milk producers to identify and recognize outstanding dairy farms and promote the dairy industry. The program is privately funded by donations made by milk processors and farmer organizations. Farms are nominated in the Spring and evaluated on their attractiveness by a judging team.

In addition to farm appearance, the quality of the milk produced must meet or exceed State and Federal standards. This program therefore creates an incentive to dairy farmers to upkeep the practices and appearances of their farm, in order to have recognition in the dairy community and be reputable in the industry.[470]

(b) WTO Consistency

This jointly funded promotional activity does not appear to constitute a subsidy.

(c) Expenditures and Allocation to Dairy

This program involves no government outlays, therefore no expenditures can be allocated.

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[470] *Dairy Farms of Distinction program*, Connecticut Department of Agriculture

PART II - CONNECTICUT

Export Assistance Program

(a) Program Description

Connecticut does not focus on bulk agriculture commodities, but value-added and high value agricultural products are important in the state. This program concentrates on the small to medium size food and beverage companies. These efforts include:

- start up information for new export companies;
- source for detailed export information (distributors, country specific information, market information, statistics, regulations, transportation);
- recruitment of companies for Market Access Program (MAP) in cooperation with Food Export USA-Northeast. Connecticut is a member or this 10 state co-op officially titled Eastern U.S. Food and Export Council (EUSAFEC), which gives matching funds to qualified companies in promoting their products overseas and in attending food and beverage trade shows;
- updated database listing all Connecticut based agricultural and value-added food and beverage companies;
- recruit Connecticut companies and coordinate their participation in trade shows in U.S. and abroad; and
- Certificates of Free Sale to conforming Connecticut based food companies.[471]

(b) WTO Consistency

This program appears on its face to be similar to normal export promotion activities. However, to the extent that it involves grants which are designed to promote exports, elements of the program would be deemed to be export subsidies. That these grants may be made at the sub-national level does not exempt them from the U.S. Uruguay Round obligations on export subsidies.

[471] *Export Program*, Connecticut Department of Agriculture

(c) Expenditures and Allocation

The information available from the state budget does not allow us to determine budgetary resources for this program, nor an allocation to dairy.

PART II - CONNECTICUT

Sales Tax Exemption for Farmers

(a) Program Description

This program enables retail sales of tangible personal property used exclusively in agricultural production to be exempt from sales and use taxes provided that the purchaser qualifies for an exemption and the purchaser has been issued a Farmer Tax Exemption Permit.[472]

(b) WTO Consistency

Please see our earlier comments on full tax exemptions. Clearly, such tax exemptions provide payments/benefits to farmers for revenue forgone. Whether or not such exemptions are production distorting is difficult to determine.

(c) Expenditures and Allocation

This is a revenue forgone as opposed to an expenditure program. Information required to calculate the extent of revenue forgone/benefits is not available.

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472 *Sales Tax Exemption for Farmers,* Connecticut Department of Agriculture

8. DELAWARE

The Delaware Department of Agriculture is responsible for sustaining and promoting Delaware's food, fibre and agricultural industries. The 2009 Budget for the Delaware Department of Agriculture reports the following total funding levels for the Department:[473]

2008	(Actual)	$13,544,000
2009	(Budget)	$19,673,300
2010	(Gov. Rec.)	$16,130,000

The State of Delaware administers the following programs:

- Farmland Preservation Program
- Ground-Water Monitoring Program
- Gypsy Moth Program
- Honeybee Programs
- Noxious Weed Program
- Nutrient Management Program
- Nutrient Management Relocation Program
- Plant Protection and Quarantine Program
- Seed Certification Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows

473 *Agriculture 65-00-00, FY 2009 Budget,* Delaware Department of Agriculture

us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Total funding by the Department of Agriculture in 2009 was $15,673,300, and the percentage allocation to dairy for Delaware in 2008 was 1.9 %. Therefore, the total amount allocated to dairy production for 2009 is $297,793.

PART II - DELAWARE

Agricultural Lands Preservation Program

(a) Program Description[474]

This is a voluntary agricultural land preservation program. To participate in the program, producers must establish an Agricultural Preservation District and then place their land into the District.

An Agricultural Preservation District must contain at least 200 contiguous acres devoted to agricultural and related uses. If there is less than 200 usable and contiguous areas within three miles of an established Agricultural Preservation District, this land can be enrolled as a District Expansion.

Landowners who place their land in an Agricultural Preservation District agree not to develop their lands for at least 10 years and to use it only for agricultural and related uses. In return, the landowner receives tax benefits, right to farm protection and an opportunity to sell a preservation easement that will permanently keep the land from development. 307 properties encompassing approximately 64,830 acres have been permanently protected through the purchase of preservation easements for $67.4 million.

(b) WTO Consistency

The Agricultural Lands Preservation Program provides tax benefits to producers who enroll their land for 10 years and direct payments based on the appraised value of the land for producers who negotiate and sell a preservation easement. In both cases, the support provided confers a benefit on the producer and ensures continued production by prohibiting development or other non-agricultural use of the land. Consequently, the domestic support provided through the program has trade and/or production distorting effects and, on that basis, would not be exempt from the U.S. AMS.

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[474] *Farmland Preservation in Delaware*, Delaware Department of Agriculture

9. FLORIDA

Agricultural producers in Florida benefit from subsidies and support provided by the Department of Agriculture and Consumer Services. The aggregate subsidies and support provided through the Department, which is the value of total expenditures as reported in the 2009-2010 Governor's Recommendations, is:[475]

Current Year Budget:	$393,931,082
Governor's Recommendation 2009-2010:	$328,508,187

The State of Florida administers the following programs:

- Dairy Inspection Program
- Antibiotics in Milk Monitoring
- Agricultural Emergency Loan Program
- Agricultural Promotional Campaign
- Aquaculture Lease Program
- Century Pioneer Farm Family Program
- Facilitating Agricultural Resource Management Systems (FARMS) Program
- Farm Bureau Young Farmer and Rancher Program
- Farm Labor Program
- Indian River Area Citrus BMP Cost Share Program
- Kosher Program
- Lake Okeechobee Protection Program
- State Agricultural Response Team

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture and Consumer Services do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support

[475] Governor's Recommendations 2009-2010

allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Total funding by the Department of Agriculture and Consumer Services in 2009 was $353,931,082, and the percentage allocation to dairy for Florida in 2008 was 5.8%. Therefore, the total amount allocated to dairy production for 2009 is $20,527,998.

PART II - FLORIDA

Dairy Inspection Program

(a) Program Description

The Department of Agriculture has 12 field inspectors who are stationed from Miami to Pensacola. They make regular visits to dairy farms and processing plants to inspect, consult, and collect samples. In 2009, dairy inspectors performed 1,643 inspections at dairy farms and plants in Florida. They also collected 8,273 samples of milk and milk products. They made 1,517 inspections of milk transport tankers and bulk milk haulers.[476]

(b) WTO Consistency

This is a normal function of government.

(c) Expenditures and Allocation

The primary purpose of this program is consumer protection.

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476 Florida Department of Agriculture and Consumer Services Florida Dairy Facts

PART II - FLORIDA

Antibiotics in Milk Monitoring

(a) Program Description

The industry has established a rigorous program to monitor milk for contamination with residues of antibiotics commonly used to treat cows on dairy farms. During the 2009 year, 58,921 transport tankers representing more that 2.7 billion pounds of milk were checked for antibiotics in Florida.[477]

(b) WTO Consistency

This is a normal function of government.

(c) Expenditures and Allocation

The primary purpose of this program is consumer protection.

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477 Ibid.

10. GEORGIA

Agricultural producers in Georgia benefit from subsidies and support provided by the Department of Agriculture. The aggregate subsidies and support provided through the Department, which is the value of total expenditures as reported in the Budget, is:[478]

2008 (Expenditures)	$59,644,480
2009 (Expenditures)	$53,633,995
2010 (Current Budget)	$53,327,993

The State of Georgia administers the following programs:

- Insured Farm Loans
- Animal Waste Management
- Agriculture Education Program
- Development Authority
- Farmers Market Program
- Georgia Grown Program
- Watershed Management

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Georgia Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

478 The Governor's Budget Report, Fiscal Year2010, pg 18

PART II - GEORGIA

Expenditures by the Georgia Department of Agriculture in 2009 were $53,633,995, and the percentage allocation to dairy for Georgia in 2008 was 3.8%. Therefore, the total amount allocated to dairy production for 2009 is $2,038,090.

PART II - GEORGIA

Insured Loan Programs

(a) Program Description

Georgia operates guaranteed and direct insured loan programs that benefit agricultural producers. The insured loans are provided through the Georgia Development Authority; a body established in 1953 to help develop opportunities for Georgia farmers. Under these programs, the Authority insures loans for agricultural capital purposes. The loans can be made for terms as long as 20 years and at variable rates (prime plus 0.5%). Fixed rate loans are also available for terms as long as 15 years.[479]

The Georgia Development Authority describes the program as follows:

> "Our service is available in every county in Georgia, and banks, savings and loan associations, and retirement systems participate in our insured farm loan program. We feature top-dollar loans, fast closing services, and low closing costs with no cost to state or federal government."[480]

(b) WTO Consistency

Based on the information available, it appears that the insured loans provided by the Georgia Development Authority confer a benefit on producers (not all would qualify for the low rate) and, on that basis, would be considered domestic support. As the program supports agricultural capital projects, it also appears that the projects are intended to support increased agricultural production and, on that basis, would have trade and/or production distorting effects. Consequently, notwithstanding the state's claim that the insurance program has no cost to the state or federal governments, the insurance program has value that must be counted against U.S. domestic support.

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479 *Insured Farm Loans,* David Skinner, Georgia Development Authority
480 *Georgia Development Authority*

(c) Expenditures and Allocation

The Government of Georgia does not provide detailed information on expenditures under this program. However, it is important to note that expenditures by the Georgia Development Authority do not appear to be included in the Budget for the Georgia Department of Agriculture. Consequently, expenditures made on account of the insured loan program are in addition to the total expenditures by the Georgia Department of Agriculture.

11. HAWAII

Hawaiian agricultural producers benefit from subsidies and support provided by the Department of Agriculture. The aggregate subsidies and support provided through the Department, which is the value of total expenditures as reported in the Budget, is:[481]

FY 2009 (Allocation)	$38,828,670
FY 2010	$36,214,901

The State of Hawaii administers the following programs:

- Agricultural Loans
- Aquaculture Loan Program
- Agriculture Insured-Guaranteed and Participation Loans
- Agriculture Loan Programs
- Agricultural Park Program
- Food Manufacturing Loans
- Agricultural Irrigation Systems
- Livestock Disease Control
- New Farmer Loan
- Part-Time Farmer Loan
- Plant Pest Control
- Qualified Farmer Loan

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows

481 Department of Agriculture, Department Survey, pg 26

us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Expenditures by the Department of Agriculture in 2009 were $38,828,670, and the percentage allocation to dairy for Hawaii in 2008 was 1.0%. Therefore, the total amount allocated to dairy production for 2009 is $388,287.

PART II - HAWAII

Agricultural Loan Programs

(a) Program Description

The Department of Agriculture administers the Agricultural Loan Program which is intended to promote agriculture by providing credit at reasonable rates and terms to qualifying individuals and entities. There are four types of loans within the Agricultural Loan Program:

- New Farmer loans,
- Qualified Farmer loans,
- Part-time Farmer loans, and
- Food Manufacturing loans.

The loans either supplement loans by private lenders or provide direct funding. The loan program operates through a revolving fund.[482]

The Department of Agriculture describes the purpose and operation of the loan programs as follows:

> "Considered a "lender of last resort", the program is not intended to compete with private sector lenders. Prospective applicants must inquire with and be denied credit from private sector lenders prior to filling an application. In addition, prospective applicants must fulfill applicable eligibility requirements."[483]

The Department of Agriculture also administers an Aquaculture Loan Program that is intended to promote development of the aquaculture industry.

In addition to making loans to producers and food manufacturers who would otherwise not receive credit from private lenders, the terms and conditions offered by the Department of Agriculture are preferential. For example, facility loans made to food manufacturers under the

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482 *Agricultural Loan Programs,* Hawaii Department of Agriculture
483 Ibid.

Food Manufacturing Loan subprogram are made at interest rates fixed at 1% below prime, clearly a concessional rate.[484]

(b) WTO Consistency

The loans provided by the Department of Agriculture through these programs should be included in the U.S. AMS. The loans at issue are provided to producers and manufacturers who were not eligible for loans from commercial lenders. Thus, the total value of the loans, and not simply the subsidized interest portion of the loans, should be considered domestic support. As the purpose of the loans is to increase agricultural production, the loans would have trade and/or production distorting effects. Consequently, the total value of expenditures made by the Department of Agriculture from the revolving fund supporting the loan program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Hawaii is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

[484] *Food Manufacturing Loans Fact Sheet*, Hawaii Department of Agriculture

PART II - HAWAII

Agricultural Parks

(a) Program Description

Under the Agriculture Park Program, through the Hawaii Department of Agriculture, lands are set aside specifically for agriculture related activity. Hawaii currently operates eight agricultural parks. The lessees are small farming enterprises engaged in diversified agricultural production.[485]

(b) WTO Consistency

Based on the information available, it appears that the qualifying producers are given long-term access to agricultural land at below market rates. Consequently, the Agricultural Park program provides support to small farming enterprises. As the program is intended to support increased agricultural production, the value of the subsidy provided through this program should be included in the U.S. AMS. However, the program is likely *de minimis*.

(c) Expenditures and Allocation

The budgetary information available from the Government of Hawaii is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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485 *Agricultural Parks*, Hawaii Department of Agriculture

PART II - HAWAII

Agricultural Irrigation Systems

(a) Program Description

According to the Hawaii Government its Irrigation System is the lifeline of the State agricultural operation. The Hawaii Department of Agriculture, through its Agricultural Resource Management Division manages five irrigation systems, two on Oahu, two on the island of Hawaii, and one on Molokai. The Molokai Irrigation System alone transports 1.2 billion gallons per year.[486]

(b) WTO Consistency

The provision of irrigation infrastructure and water is production distorting. Expenditures on irrigation infrastructure and services including the providers of water at less than market rates should be included in the U.S. AMS, whether made at the federal or state level.

(c) Expenditures and Allocation

The budget information available from the State of Hawaii does not allow us to calculate total expenditures or benefits under this program. Therefore, we cannot estimate the benefit to dairy.

486 *Agricultural Irrigation Systems*, Hawaii Department of Agriculture

PART II - IDAHO

12. IDAHO

Idaho agricultural producers benefit from subsidies and support provided by the Department of Agriculture. The aggregate subsidies and support provided through the Department, which is the value of expenditures as reported in the Budget, is:[487]

2009 (Actual)	$35,889,200
2010 (Appropriation)	$39,177,300
2011 (Request)	$41,475,500

The State of Idaho administers the following programs:

- Beginning Farmer Bond Program (Aggie Bond)
- Agricultural Conservation Committee
- Agricultural Efficiency Technical Assistance
- Beef Cattle Environmental Control Program
- Energy Education And Training Program
- International Trade Offices
- Irrigation Energy Reduction Program
- Irrigation Loan Requirements
- Noxious Weed Cost-Share Program
- Nursery, Landscape, and Floral Research Grants
- Organic Certification Program
- Preferred Program – Branding
- Rangeland Management
- Scientific Irrigation Scheduling Program
- Water Quality Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Idaho Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy

487 Idaho Legislative Budget Book for Fiscal Year 2011, pg 23

production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Expenditures by the Department of Agriculture in 2009 were $35,889,200, and the percentage allocation to dairy for Idaho in 2008 was 32.7%. Therefore, the total amount allocated to dairy production for 2009 is $11,716,148.

PART II - IDAHO

Irrigation Loan Program

(a) Program Description

Idaho provides loans to support the development of new or improved irrigation systems in Idaho. Eligibility criteria for irrigation projects include the ability to conserve energy or use renewable energy and utilize existing renewable technologies. Eligible projects include retrofits of existing irrigation systems and new irrigation systems where the land has been flood irrigated or dry farmed.

Projects must show an estimated payback period of 10 years or less based on dollar savings calculated by the Department.

The program can provide loans up to $100,000. The interest rate is set at 4% over a maximum five year repayment term.[488]

(b) WTO Consistency

Based on the information available, it appears that the irrigation loans that are provided under this program are made on better terms and conditions than those available from private sector lenders. Consequently, expenditures made under this program should be considered subsidies that support Idaho producers. The value of these subsidies should be included in the U.S. AMS on the basis that they will have trade and/or production distorting effects. This is particularly the case with respect to the use of these loans to introduce irrigation to land that was previously under dry-land farming.

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488 *Criteria for Technical and Economic Feasibility Review by the Department of Water Resources*, Irrigation Loan Program, Agricultural Sector

(c) Expenditures and Allocation

The budgetary information available from the Government of Idaho is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program. However, based on the available information, it appears that expenditures under this program are made by the Department of Water Resources and, accordingly, would be in addition to overall support of agricultural producers by the Department of Agriculture.

PART II - IDAHO

Idaho Biomass Fuel Tax Incentive

(a) Program Description

Idaho imposes a 25 cent per gallon excise tax on all motor fuel.[489] Distributors are required to pay the tax, but may deduct the number of gallons of anhydrous ethanol contained in any gasohol they receive.[490] The ethanol at issue must be produced from agricultural products. Consequently, the program provides a 25 cent per gallon tax incentive for the production of anhydrous ethanol made from agricultural products.

(b) WTO Consistency

The excise tax credit for gasohol provides a subsidy in the form of foregone revenue. As this subsidy is intended to support ethanol produced from agricultural products, it is a domestic subsidy. As this subsidy is tied to production of ethanol for use in gasohol, the total value of this subsidy should be included in the U.S. AMS.

(c) Expenditures and Allocation to Dairy

This incentive is over and above the benefits to biomass fuels discussed and estimated in Part I. However, information on total expenditures (revenue foregone) under this program is not available.

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[489] *Idaho Statutes, Title 63-2402(2)*
[490] Ibid., *Title 63-2405*

PART II - IDAHO

International Trade Offices

(a) Program Description

Idaho's overseas trade offices assist companies in developing and expanding their export markets. Idaho maintains overseas offices in targeted areas around the world where significant business and diplomatic relationships exist. The state supports fully staffed offices, in Taipei, Taiwan and Guadalajara, Mexico, and operates representative offices in China, Japan, and Korea.

Trade office representatives are natives of the country where their office is located and serve as a valuable resource to help Idaho firms understand the business, cultural, and political environments of these markets.

Specific services include:

- Market research
- Market entry/expansion assistance
- Distributor/buyer searches
- Business counseling
- In-country appointments and assistance
- Representation at international trade shows
- Government/diplomatic relations
- Cultural assistance [491]

(b) WTO Consistency

These activities would appear to be normal trade commission-type services. They do benefit Idaho farmers, but they would be a normal function of government.

491 *International Marketing, International Trade Offices*, Idaho Department of Agriculture

PART II - IDAHO

(c) Expenditures and Allocation

There is no information available which would enable us to calculate the expenditures under this program.

PART II - IDAHO

Irrigation Energy Reduction Program

(a) Program Description

The Idaho Energy Divisions Agricultural Efficiency Program promotes cost effective energy conservation programs and Idaho's Agricultural community. The program assists the agriculture community in locating and implementing alternative sources of energy to reduce energy use and water consumption on Idaho's farmlands. It does this by, providing technical assistance, educational programs, and demonstration projects such as the use of soil moisture monitoring equipment. Energy loans are available for qualifying projects up to $100,000 at an interest rate of 4%.[492]

Eligible applicants for an irrigation loan must fit the following criteria to apply:

1. The project must be conducted within the state of Idaho.
2. Demonstrate the ability to conserve energy or the use of renewable energy.
3. Utilize existing, reliable technologies.
4. Meet federal and state air and water quality standards.
5. Be for existing buildings (retrofits only).[493]

(b) WTO Consistency

Irrigation enhances yields, or permits production where it would otherwise not be possible. Irrigation services are costly, as recognized by state efforts to ensure that existing systems are made more energy efficient.

This program appears to benefit agricultural producers by providing loans designed to reduce their costs. Such expenditures should be included in the U.S. AMS, whether at the federal or sub-national level. There may be an argument that such support is *de minimis* (difficult to assess

492 *Irrigation Energy Reduction Program*, Idaho Department of Water Resources
493 *Irrigation Loan Requirements*, Idaho Department of Water Resources

in the absence of precise information reported in a timely manner), but it is for the U.S. and state authorities to claim such exemption.

(c) Expenditures and Allocation

The information needed to calculate benefits under this program, and to estimate an allocation to dairy, is not available.

13. ILLINOIS

Illinois agricultural producers benefit from subsidies and support provided by the Department of Agriculture. The aggregate subsidies and support provided through the Department, which is the value of expenditures as reported in the Budget, is:[494]

2008 (Actual)	$104,386,600
2009 (Enacted)	$110,918,300
2010 (Recommended)	$109,209,900

The State of Illinois administers the following programs:

- Beginning Farmer Bond Program (Aggie Bond)
- State Guarantee Program for Restructuring Ag Debt
- Young Farmer Guarantee Program
- Specialized Livestock Guarantee
- Value-Added Stock Purchase
- Agri-Industry Guarantee
- AgriFIRST - Value-Added Grant Program
- Conservation 2000 Sustainable Agriculture Grant Program
- Cost-share Funds Targeted to TMDL Watersheds
- Illinois Domestic Marketing Programs
  - Centennial Farms Program
  - Sesquicentennial Farms Program
  - Illinois Products Logo Program
  - Illinois Agricultural Youth Institute
- Environmental Programs
  - Cooperative Groundwater Protection Program
  - Land Application Authorization Program
  - Agrichemical Facility Response Action Program
  - Cooperative Groundwater Protection Program
  - Livestock Management Facilities Program
- Farmland Protection
- International Marketing
  - Export and Promotional Assistance
  - Market Access Program
  - Branded Program

494 *Illinois State Budget Fiscal Year 2010*, pg 10-8

- Seed Variety Protection
- SOILS Conservation Tillage Project

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

Based on the limited information available to us the programs administered by the Illinois Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Expenditures by the Department of Agriculture during this period were $104,386,600, and the percentage allocation to dairy for Illinois in 2008 was 2.3%. Therefore, the total amount allocated to dairy production for 2009 is $2,551,121.

PART II - ILLINOIS

Illinois AgriFIRST

(a) Program Description

Illinois AgriFIRST is a grant program intended to benefit value-added agriculture. The program provides grants to eligible persons and agribusinesses for both construction and non-construction projects.

Grants for non-construction projects can be used to offset up to 75% of the cost of technical assistance to develop the project, to a maximum of $25,000, and up to 50% of the cost of feasibility studies, competitive assessments and consulting-productivity services.

Grants for construction projects may provide up to 10% of the project's capital construction costs to a maximum of $5 million. The grants may be used to purchase land; to purchase, construct or refurbish buildings; to purchase or refurbish machinery or equipment; installation; repairs; labour and working capital.[495]

(b) WTO Consistency

Expenditures made under the Illinois AgriFIRST program should be included in the U.S. AMS. The funding is provided in the form of a grant to offset the cost of developing value-added agricultural processing in Illinois. Even if this program did not impact on production in Illinois, which is doubtful, it would have trade distorting effects by offsetting the cost of producing value-added goods.

(c) Expenditures and Allocation

The budgetary information available from the Government of Illinois is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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495 *Illinois AgriFIRST*, Illinois Department of Agriculture

PART II - ILLINOIS

Farmland Protection

(a) Program Description

The Illinois Department of Agriculture works with other levels of government to keep agricultural land in agricultural production. Under this program, landowners may "enroll" agricultural land for at least 10 years (and re-enroll for 8 years). By enrolling their land, producers receive protection from locally initiated projects that would "unreasonably restrict" normal farming practices. Enrolled producers would also be protected from "special benefits assessments that are not in their best interests". In exchange for these benefits, the landowner must keep the enrolled land in agricultural production.[496]

(b) WTO Consistency

Through enrollment in this program, landowners receive the benefit of exemption from local laws that would limit their ability to farm and exemption from tax assessments. These are important benefits that would not be enjoyed by landowners who choose to not participate in the program. As the intention of the program is to ensure that agricultural land remains in production, the support would have trade and/or production effects on the basis that it would ensure continued production at lower costs. Consequently, the support provided to producers through this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Illinois is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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496 *Farmland Protection*, Illinois Department of Agriculture

14. INDIANA

Indiana agricultural producers benefit from subsidies and support provided by the Department of Agriculture. The aggregate subsidies and support provided through the Department, which is the value of expenditures as reported in the Budget, is:[497]

FY 2009-2010	$9,208,112
FY 2010-2011	$9,208,112

The State of Indiana administers the following programs:

- Agricultural Loan and Rural Development Project Guaranty Program
- Capital Access Program (CAP)
- Aggie Bond Program
- Treasurer's Agricultural Loan Program (TALP)
- Indiana Agriculture Resource Council
- Indiana Clean Water
- Indiana Conservation Partnership
- Farm Mediation
- Indiana Farms - 100 Years Old Award Program
- Indiana Federal State Marketing Improvement Program
- Water Quality Programs
- Livestock Promotion and Development Grant Program
- River Friendly Farmer Program
- Rural Development Action Program
- Rural Regional Partnership Program
- Value-Added Business Development and Marketing
- Indiana Economic Development Corporation

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

Based on the information available to us the programs administered by the Office of the Commissioner of Agriculture do not provide support exclusively to dairy producers. Therefore,

[497] List of Appropriations for the Biennium July 1, 2009 to June 30, 2011, State of Indiana, pg A-8

the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Expenditures by the Department of Agriculture during this period were $9,208,112, and the percentage allocation to dairy for Indiana in 2008 was 6.4%. Therefore, the total amount allocated to dairy production for 2009 is $589,319.

PART II - INDIANA

Farm Mediation/Farm Counselling

(a) Program Description

The Commissioner of Agriculture provides free legal and financial counseling to financially troubled farmers in Indiana. These services provided include:

- agricultural mediation directed towards resolving disputes between producers and USDA;
- USDA-approved borrower training seminars in financial management;
- Counselling to producers at meetings of borrowers and lenders to facilitate communication and debt restructuring; and
- Assistance with filing loan applications and related documents.[498]

(b) WTO Consistency

The Farm Mediation/Farm Counselling program provides support to Indiana producers who find themselves in financial difficulty. As these services are provided free of charge, they constitute a subsidy to producers for purposes of the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture. Arguably, the subsidy provided through these services should be included in the U.S. AMS on the basis that they do not appear to fall within any of the exemptions set out in Annex 2(2) to the Agreement on Agriculture. However, these should be seen as a normal function of government, and would in any event appear to be *de minimis*.

(c) Expenditures and Allocation

The budgetary information available from the Government of Indiana is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[498] *Farm Mediation/Farm Counselling,* Office of the Commissioner of Agriculture

PART II - INDIANA

Loan Guarantee Programs

(a) Program Description

Indiana operates three loan guarantee programs that benefit agricultural producers: (i) Agricultural Loan and Rural Development Project Guaranty Program, (ii) Capital Access Program; and (iii) Treasurer's Agricultural Loan Program.

The Agricultural Loan and Rural Development Project Guaranty Program can provide guaranteed loans for value-added agricultural projects and rural development projects.

The Capital Access Program establishes a cash reserve that serves as security for lenders. Guaranteed loans may be used to purchase equipment, livestock, buildings or other farm-related needs and may be used as operating lines of credit.

The Treasurer's Agricultural Loan Program offers low interest loans for agricultural production needs. These loans are made through qualified institutions.[499]

(b) WTO Consistency

Based on the information available, it appears that programs provide loans and loan guarantees at rates and conditions not available on the market and thereby confer a subsidy on eligible recipients. The loans and loan guarantees are intended to either reduce operating costs or to fund investment in productive capacity. Therefore, the total value of funding under this program should be included in the U.S. AMS on the basis that it reduces costs for specific producers and is intended to have trade and/or production distorting effects.

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[499] *Matt Tuohy, Indiana Development Finance Authority,* Letter to National Council of State Agricultural Financial Programs

(c) Expenditures and Allocation

The budgetary information available from the Government of Indiana is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

PART II - INDIANA

Agriculture Rural Rehabilitation Grant Program

(a) Program Description

Provides guarantees of loans to finance value-added agriculture projects and rural development projects that result in the creation of new jobs in the State of Indiana.[500]

(b) WTO Consistency

This would appear to be a normal function of government. There is insufficient information available to determine whether or not it is a subsidy. There are *prima facie* indications that the object and purpose of this program would be to stimulate production.

(c) Expenditures and Allocation

Not available. We have not made any allocation to dairy producers.

500 National Council of State Agriculture Finance Program

15. IOWA

Agricultural producers in Iowa benefit from subsidies and support provided by the Department of Agriculture and Natural Resources. The subsidies and support provided to agricultural producers through the Department, i.e., the value of expenditures as reported in the Governor's FY 2009 and FY 2010 Recommendations, is:[501]

FY 2009-2010 (Estimated)	$46,345,995
FY 2010-2011 (Governor Recommendation)	$41,624,678

The State of Iowa administers the following programs:

- Beginning Farmer Loan Program
- Loan Participation Program
- Agricultural Drainage Well Closure Assistance Program
- Buffer Initiative
- Century Farms Program
- Conservation Reserve Enhancement Program
- Farmers Market Nutrition Program
- Integrated Farm and Livestock Management Demonstration Program
- Market Development Program
- No-Interest Loans
- Iowa Organic Certification
- Water Quality Protection Projects
- Watershed Protection Program
- Soil Conservation Division

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

Based on the information available to us, the programs administered by the Department of Agriculture and Natural Resources do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis

[501] Governor's FY 2009 and FY 2010 Budget Recommendations, pg 20

of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Expenditures by the Department of Agriculture and Natural Resources during this period were $46,345,995, and the percentage allocation to dairy for Iowa in 2008 was 3.2%. Therefore, the total amount allocated to dairy production for 2009 is $1,483,072.

PART II - IOWA

Loan Guarantee Programs

(a) Program Description

Iowa operates two loan guarantee programs: (i) the Loan Participation Program; and (ii) Low-Income and Beginning Farmers loan program. These programs are intended to support beginning farmers who do not have a substantial ownership interest in farmland and low-income farmers who need to secure loans from participating lenders. Iowa guarantees loans to beginning farmers with a net worth of less than $360,000. Iowa assists eligible low-income and beginning farmers, by supplementing the borrower's down payment.[502]

(b) WTO Consistency

These programs assist producers who could not otherwise obtain financing or obtain financing at preferential rates and, thus, confer a subsidy on the recipient. As the subsidy will reduce the recipient producer's overall costs and will have production and/or trade distorting effects, the total value of support provided under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Iowa is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures under this program.

[502] National Council of State Agriculture Finance Programs

PART II - IOWA

Biomass Energy Program

(a) Program Description

Iowa imposes a differential excise tax on ethanol-blended gasoline, which is a motor fuel containing at least 10% alcohol distilled from cereal grains. The differential tax is imposed on the basis of the "distribution percentage" of ethanol-blended gasoline sold in the state (i.e., the percentage of gasoline distributed that is represented by ethanol blended gasoline). Iowa imposes a lower rate of tax on ethanol-blended gasoline until the "distribution percentage" is 95% or more, at which point, equal excise taxes are imposed.[503]

(b) WTO Consistency

The differential excise tax program confers a subsidy on ethanol-blended gasoline in the form of foregone revenue. This preferential tax rate is tied to the use of alcohol distilled from cereal grains; it is intended to support agricultural production. Therefore, the total value of the subsidy provided under this program should be included in the U.S. AMS on the basis that it is domestic support tied directly to production for use in ethanol.

(c) Expenditure and Allocation to Dairy

The value of revenue foregone under this program is not available.

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[503] Codes of Iowa, Section 452A.3(1)

PART II - IOWA

Loan Participation Program

(a) Program Description

This program assists qualified low-income farmers to more readily secure loans from participating lenders by supplementing the borrowers' down-payment. It also reduces lender's risk since the IADA provides a "last in-last out" loan participation for the financial institution. The maximum loan for each beneficiary amount is $100,000.[504]

(b) WTO Consistency

This program assists producers who could not otherwise obtain financing or obtain financing at low rates and, thus, confers a subsidy on the recipient. As the subsidy will reduce the recipient producer's overall costs and will have trade and/or production distorting effects, the total value of support provided under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Iowa is not sufficiently detailed to allow us to determine actual, estimated or budgeted outlays or expenditures on account of this program.

504 *Jeff Ward, Loan Participation Program,* Letter to The National Council of State Agricultural Finance Programs

PART II - IOWA

Market Development Program

(a) Program Description

This program assists producers in evaluating the different marketing challenges and opportunities available to them and provides information to the producer that will assist them in preparing their product for sale by addressing post harvest handling, packaging, labelling and pricing considerations of the product.

A key component of the Department's Market Development Program is the promotion of Iowa grown food to consumers and wholesale buyers. The "Farm Fresh" directory of producers of Iowa grown products is made available to the public to facilitate this producer-to-consumer connection.[505]

(b) WTO Consistency

This program benefits Iowa farmers, but appears to fall within the terms of the Annex 2, paragraph 2(f) exemption from AMS.

(c) Expenditures and Allocation

Total expenditures under this program are not available.

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505 *Market Development Program*, Agricultural Diversification and Market Development Bureau

PART II - IOWA

No-Interest Loans

(a) Program Description

The Iowa State Legislature established the conservation practices revolving loan fund to provide loans to eligible landowners at no interest for the construction of permanent soil conservation practices. Eligible landowners may borrow up to $10,000 for a 10-year period. Repayment is made in 10 annual payments equal to 10% of the initial loan amount. In the event of land ownership transfer, payment is due immediately.[506]

(b) WTO Consistency

Expenditures under these programs provide financial support to Iowa producers. The soil conservation and water quality practices supported by these programs clearly benefit agricultural producers who rely on soil and clean water for their livelihood. Based on the information available, it is not clear that the expenditures would be exempt from the U.S. AMS pursuant to Annex 2.2(g). Arguably, the benefits may be *de minimis*.

(c) Expenditures and Allocation

The budgetary information available from the Government of Iowa is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures or outlays on account of this program.

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[506] *No-Interest Loans*, Department of Agriculture and Land Stewardship

16. KANSAS

Agricultural producers in Kansas benefit from subsidies and support provided by the Department of Agriculture and the Department of Animal Health.

The Budget for the Department of Agriculture is reported as follows:[507]

FY 2009 (Actual)	$28,761,957
FY 2010 (Estimate)	$26,767,704
FY 2011 (Budget)	$28,761,957

The Budget for the Animal Health Department is reported as follows:[508]

FY 2009 (Actual)	$3,091,564
FY 2010 (Estimate)	$2,799,521
FY 2011 (Budget)	$2,692,988

The State of Kansas administers the following programs:

- Beginning Farmer Loan Program
- Agricultural Production Loan Deposit Program
- Organic Certification Cost-Share Program
- Center for Sustainable Agriculture and Alternative Crops
- Grain Warehouse Inspection Program
- Laboratory Program
- Pest Management - Noxious Weeds In Kansas Program
- Pesticide and Fertilizer Program
- Plant Protection & Weed Control Program
- Agricultural Commodities Assurance Program
- Food Safety Programs
    - Dairy Inspection Program
    - Meat and Poultry Inspection program
    - Agricultural Commodities Assurance program (ACAP)

507 *The Governor's Budget Report Fiscal Year 2011*, pg 424
508 Ibid., pg 436

- Clean Water Farm Projects
- Dam Safety Program
- Water Appropriation Program
- Water Structures Program
- Kansas Agricultural Mediation Services

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The Department of Agriculture and the Animal Health Department do not provide sufficient information to permit us to determine whether or not support is provided exclusively to dairy producers. Inspection programs benefit consumers, not producers, except indirectly in promoting the reliability and safety of their products. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Expenditures by the Department of Agriculture and the Animal Health Department during this period totaled $31,853,521, and the percentage allocation to dairy for Kansas in 2008 was 3.3%. Therefore, the total amount allocated to dairy production for 2009 is $1,051,166.

Kansas Agricultural Production Loan Deposit Program

(a) Program Description

The Agricultural Production Loan Deposit Program uses "idled" treasury funds to allow Kansas Banks and Farm Credit Associations to make loans of up to $250,000 to Kansas farmers with a debt-to-asset ratio of 40% or greater. Loans made under this program are supported by agricultural production linked deposits placed with the eligible institution by the Kansas Pooled Money Investment Board. These deposits are at an interest rate set at 2.0% below market rates. Eligible borrowers must be agricultural producers who live and farm in Kansas with a debt-to-asset ratio of 40% or more, who have not obtained any other agricultural production loan and who will use the loaned funds exclusively for operating expenses involved in farming.[509]

(b) WTO Consistency

This program provides below-market rate loans to producers who would likely not be eligible for loans from commercial lenders and who would certainly not receive loans at comparable rates. Therefore, the support provided through this program constitutes a subsidy. As the subsidized loans must be used for operating expenses involved in farming, they would reduce the recipient producer's costs and would have trade and/or production distorting effects. Therefore, the total value of support provided under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Kansas is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

[509] *Kansas Agricultural Production Loan Deposit Program,* State of Kansas, Office of the Treasurer

PART II - KANSAS

Dairy Inspection Program

(a) Program Description

Inspectors with the Kansas Department of Agriculture's dairy inspection program protect consumers in Kansas and other states. They regulate the dairy industry, starting at the farm and continuing as the milk and milk products are transported, processed, distributed and sold. Activities include inspection of facilities and equipment, collection and testing of samples, educational activities, and consumer protection.[510]

(b) WTO Consistency

This activity is excluded from AMS pursuant to Annex 2.2(e) to the WTO Agreement on Agriculture.

(c) Expenditures and Allocation to Dairy

Inspection services benefit consumers and are a normal function of government. We would not allocate any benefits from this program to dairy producers.

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510 *Kansas Dairy Program*, Kansas Department of Agriculture

17. KENTUCKY

Agricultural producers in Kentucky benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture is reported as follows:[511]

FY 2009 (Enacted)	$31,375,000
FY 2010 (Enacted)	$31,848,100

The State of Kentucky administers the following programs:

- Linked Deposit Loan Program
- Agriculture and Commercial Trade Office – Mexico
- Agriculture Development Board
- Agricultural Finance Corporation
- Agri-tourism Competitive Awards Program
- Farmers' Markets Competitive Grants Program
- Kentucky Center for Agriculture Development and Entrepreneurship
    - Business and Industry Guaranteed Loan Program
    - KY Tourism Development Loan Program
    - Loans for Beginning Farmers and Ranchers
    - Loans to Horse Breeders
    - Loans for Socially Disadvantaged Persons
    - Business and Industry Guaranteed Loan Program
    - Horticulture Advertising Costshare Grant
    - Market Development Cost-share Grant
    - Agri-tourism Competitive Awards Program
    - Farmers' Market Competitive Awards Program
    - Horticulture Advertising Costshare Grant
    - Market Development Cost-share Grant
    - SARE On-Farm Research Grant Program
    - SARE Producer Grant Program
    - SARE Sustainable Community Innovation Grant Program
    - C-Train Grant Program
    - Galyan's SEEK Grants
    - Education Technology Program (Teach America)

511 *Kentucky Department of Agriculture Budget, FY 2008 – 2010,* Department of Agriculture, Kentucky

  - Environmental Quality Incentives Program
  - Environmental Research & Education
  - Foundation Scholarships
- Horticulture Advertising Cost-Share Grant
- Market Development Cost-Share Grant
- Aquaculture Plan
- Farmers' Market & Direct Marketing
- Farm-to-School Program
- Fruit & Vegetable Program
- Hay and Forage Program
- Value-Added Grants
  - Horticulture
  - Aquaculture
- Certified Organic Program
- CPH-45 Program – Cattle
- Dead Animal Removal Assistance Program
- Direct Meat Marketing
- Hay Inspection Program
- Agriculture and Environment in the Classroom
- Agriculture Resources Development Authority
- Kentucky Export Associations
- Farm and Home Safety Program
- Kentucky Governor's Commission on Family Farms
- Long Term Agriculture Development Plan
- Near Term Agriculture Development Plan
- Kentucky Proud Program
- Value-Added Wood Program
- Bovine Health Johne's Program
- Eastern Equine Encephalitis Surveillance Program
- Equine Emergency Programs
  - Equine Infectious Anemia Program
  - Equine Metritis Importation Program
- Crop Protection Mini Bulk Recycling Program
- Pesticides Collection and Disposal Program
- Rinse and Return Recycling Program
- Bird Control Program
- Blackflies Program
- Mosquito Control Program
- Noxious Weed Control Program
- Rodent Control Program
- Farmland Preservation Program
- Pesticide Registration Program
- Structural Branch Program
- Technical Support Branch

PART II - KENTUCKY

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Requested expenditures by the Department of Agriculture during this period were $31,848,100 and the percentage allocation to dairy for Kentucky in 2008 was 4.9%. Therefore, the total amount allocated to dairy production for 2009 is $1,537,400.

PART II - KENTUCKY

Linked Deposit Loan Program

(a) Program Description

Under this program Kentucky offers loans at "attractive rates" to farmers through participating financial institutions. Loans can be made up to a maximum of $100,000 for agricultural diversification, crop production, land acquisition, buildings, livestock, fish and equipment.[512] In addition, an applicant must show annual gross earnings of no more than $1 million with at least 50% of that gross income from farming.[513]

(b) WTO Consistency

Based on the information available, it appears that this program offers below-market rate loans to eligible producers or, at least, offers those produces rates below the rates that they could obtain from commercial lenders. Therefore, the loans provided confer a subsidy on eligible participants. The loans provided under this program are intended to support agricultural production and should be included in the U.S. AMS on the basis that they have trade and/or production distorting effects.

(c) Expenditures and Allocation

The budgetary information available from the Government of Kentucky is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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512 *Gene C. Royalty, Kentucky Department of Agriculture*, Letter to National Council of State Agricultural Finance Programs

513 Kentucky Agriculture Finance Corporation

18. LOUISIANA

Agricultural producers in Louisiana benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture and Forestry is reported as follows:[514]

FY 2009 (Existing Operation Budget)	$115,781,133

The State of Louisiana administers the following programs:

- Agribusiness Loan Guarantee Program
- Linked Deposit Loan Program
- Agricultural Finance Authority
- Catfish and Crawfish Tax Exemptions
- Farm Youth Loan Program
- Boll Weevil Eradication Program
- Formosan Termite Program
- Livestock Sanitary Board
- Pesticide and Environmental Programs
- Quarantine Programs
- Forest Stewardship Program
- Horticulture and Quarantine Programs
- Soil and Water Conservation Programs
- Forest Product Marketing, Utilization and Development Program
- Forest Productivity Program
- Agricultural Chemistry Programs
- Agricultural Commodities Commission
- Apiary Programs
- Louisiana Certified Logo Program
- Counseling Service
- Dairy Industry Promotion Board
- Dairy Programs
- Farmers Market Nutrition Program
- Horticulture Commission
- International Trade Program
- Market Development Programs
- Poultry and Eggs - Fruits and Vegetables Inspection Services
- Seed Programs

[514] *State Budget Fiscal Year 2009-2010*

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

While the Department of Agriculture has several programs which appear to provide support exclusively to dairy producers, we do not have sufficient information to determine expenditures under these programs. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The existing operating budget as of January 1, 2009 is reported as $115,781,133, and the percentage allocation to dairy for Louisiana in 2008 was 2.1%. Therefore, the total amount allocated to dairy production for 2009 is $2,431,404.

PART II - LOUISIANA

Dairy Industry Promotion Board

(a) Program Description

The Louisiana Dairy Industry Promotion Board is responsible for the development and implementation of an advertising, promotion and education program designed to increase the consumption of milk and other dairy products.[515]

(b) WTO Consistency

It is not clear from the information available whether or not this program would meet the requirements of Annex 2.2(f) to the WTO Agreement on Agriculture. If not, its object and purpose would be production distorting.

(c) Expenditures and Allocation

The budgetary information available from the Government of Louisiana is not sufficiently detailed to allow us to determine actual, estimate or budgeted expenditures on account of this program which should be allocated to dairy.

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515 *Dairy Industry Promotion Board,* Louisiana Department of Agriculture

PART II - LOUISIANA

Dairy Programs

(a) Program Description

The Dairy Division includes the Dairy Stabilization Board, Milk Testing Program and the Milk Bonding Program. These programs support and complement each other to the extent that they regulate and/or promote stability and orderly marketing of fluid milk within the state of Louisiana.[516]Given the short shelf life of fluid dairy products, orderly marketing is imperative to both the consuming public and the milk producers. The Dairy Stabilization Board addresses problems created in the marketplace, the Milk Testing Program addresses the raw milk production and handling of milk from the farm to the processing plant. The Milk Bonding Program is designed to guarantee the payment for milk sold by the farmer to the processing plant or cooperative. [517]

(b) WTO Consistency

This program appears to understate activities and takes on risks which benefit dairy farmers. The Bonding Program would not appear to meet any of the criteria set out in Annex 2.2 to the WTO Agreement on Agriculture. The other elements of the program suite provide income support and guarantee receivables. These are subsidies. Arguably, the milk testing program is a normal function of government with the object and purpose of consumer protection.

(c) Expenditures and Allocation

The budgetary information available from the Government of Louisiana is not sufficiently detailed to allow us to determine actual, estimate or budgeted expenditures on account of this program.

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516 *Dairy Division*, Louisiana Department of Agriculture
517 Ibid.

19. MAINE

Agricultural producers in Maine benefit from subsidies and support provided by the Department of Agriculture. General Fund appropriations for the Department of Agriculture, Food and Rural Resources are reported as follows:[518]

FY 2009-2010	$6,690,034
FY 2010-2011	$6,741,053

The Maine Department of Agriculture, Food and Rural Resources administers the following programs:

- Maine Farms for the Future
- Dairy Inspection Program
- Milk Commission
- Agricultural Marketing Loan Fund
- Nutrient Management Loan Program
- Farms for the Future Program
- Ag Business Grants
    - Agricultural Development Grant Program
    - Agricultural Technical Assistance Grant Program
    - Agricultural Farms For The Future Grants
    - Agricultural Water Source Development Cost Share Program
- Agricultural Business Development
    - Technical Assistance
    - Business Resource Directory
    - Ag Business Planning Assistance
    - FASTTRAC business training program
    - NxLevel agricultural business planning program
- Ag Compliance Program
- Animal Welfare Program
- Cattle Health Assurance Program
- Compost Program
- Cooperative Ag Pest Survey Program
- Farmland Protection Program

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518 State of Maine, General Fund Appropriations, 1st Regular Session, 124th Legislature, "2010 to 2011 General Food Summary by Department", pg 1

- Farmlink Program
- Food and Farm Products Marketing Program
- Honey Bee Licensing and Inspection Program
- Horticulture Program
- Integrated Pest Management Program
- Market Access Program
- Nutrient Management Program
- Quality Assurance Program
- Quality Trademark Program
- Red Meat and Poultry Inspection Program
- Seed Potato Certification Program
- Senior FarmShare Program
- Water Management Planning Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by this agency do not appear to provide support exclusively to dairy. Many more of them simply involve state-level delivery of USDA programs. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Total support provided to agricultural producers by Maine in 2009 was $6,690,034.

The percentage allocation to dairy for Maine in 2008 was 18.3%. Therefore, support provided to agricultural producers by the Maine Department of Agriculture, Food and Rural Resources for 2009 was $1,224,276.

Agricultural Business Loans

(a) Program Description

The Department of Agriculture, Food and Rural Resources operates two loan programs that support capital improvements: Agricultural Marketing Loans and Potato Marketing Improvement Fund loans.

Loans under the Agricultural Marketing Loans program fund either 75% or 90% of a capital improvement project for the agricultural business. Interest rates are set at a "favourable" 5%.[519] Loans made under this program can be up to $250,000. The program is intended to support the use of new technologies and innovative processes. Loan funds may be used for new or improvements to land or buildings as well as to purchase retrofit machinery and equipment that will improve the quality and marketability of Maine's products.[520]

Loans made from the Potato Marketing Improvement Fund are provided to potato growers and packers to construct modern storage facilities and to modernize existing storage facilities. Long-term, low fixed rate loans are also available for construction or improvements to packing facilities.[521]

(b) WTO Consistency

These programs provide important support to Maine's agriculture business. As the effect of these subsidies is to reduce costs and increase production, the support provided should be included in the U.S. AMS.

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[519] *Agricultural Business Development*, Maine Department of Agriculture, Food and Rural Resources

[520] *Mary Ellen Johnston, Division of Market Production Development*, letter to National Council of State Agricultural Finance Programs

[521] *Agricultural Business Development,* Maine Department of Agriculture, Food and Rural Resources

PART II - MAINE

(c) Expenditures and Allocation

The budgetary information available from the Government of Maine is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

PART II - MAINE

Maine Farms for the Future

(a) Program Description

Main Farms for the Future is a statewide program for established farmers who are: planning on farming for the foreseeable future, thinking about making a major change within their business, looking for help to transition or expand.[522]

Phase 1 — A selected farm receives a team of advisors and technical services to develop a plan that covers management, and technical services to develop a plan that covers management, operating, marketing and financing, and new investment to improve the farm's bottom line and long –term sustainability.

Phase 2
- A cash grant of 25% of the funds needed to implement the plan, currently capped at $25,000.
- The opportunity to apply for a reduced interest 2% loan.

(b) WTO Consistency

The grants provided under this program provide direct support to producers and are intended to ensure that agricultural land remains in production. Consequently, the grants will have trade and/or production distorting effects. Therefore, the support provided under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Maine is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

522 Maine Farms for the Future, Business planning and grants to improve economic viability of Maine Farms

PART II - MAINE

Nutrient Management Loan Program

(a) Program Description

This program provides low-interest direct loans, up to $350,000, for the construction of livestock manure and milk room waste containment/handling facilities.[523]

(b) WTO Consistency

This program provides support that will offset nutrient management costs that would otherwise be incurred by recipient producers. Based on the information available, it is not clear that expenditures under this program would be exempt from the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Maine is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[523] *Mary Ellen Johnston, Division of Market and Production Development,* letter to National Council of State Agricultural Finance Programs

PART II - MAINE

Dairy Inspection Program

(a) Program Description

The program provides Maine's dairy processing industry with State regulated and FDA certified inspection of their products and State certification of their analysts which allows them to sell milk across state lines and within the State. The Dairy Inspection Program is responsible for inspecting processors and farms to ensure the safe supply of milk for the public.[524]

(b) WTO Consistency

This program would appear to be exempt from AMS pursuant to Annex 2.2(e) to the WTO Agreement on Agriculture.

(c) Expenditures and Allocation

This is local delivery of USDA programs. It is a normal function of government, which benefits and protects consumers.

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[524] *Dairy Inspection Program*, Maine Department of Agriculture

20. MARYLAND

Agricultural producers in Maryland benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture is reported as follows:[525]

2009	(Actual)	$115,261,391
2010	(Appropriation)	$78,213,104
2011	(Allowance)	$99,052,875

The State of Maryland administers the following programs:

- Ag Nutrient Management Program
- Ag Water Quality Cost-Share Program
- Egg Quality Assurance Program

Many of the programs delivered by the Department of Agriculture in Maryland are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

It would appear that, based on available information, the programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

525 *FY 2011Maryland Proposed Operating Budget Detail*, Volume 2

PART II - MARYLAND

The operating budget in 2009 is $115,261,391, and the percentage allocation to dairy for Maryland in 2008 was 9.9%. Therefore, the total amount allocated to dairy production for 2009 is $11,410,878.

PART II - MARYLAND

Maryland Agricultural Water Quality Cost-Share Program

(a) Program Description

Under this program, Maryland provides grants to farmers for up to 87.5% of the cost to install best management practices to control soil erosion, manage nutrients and safeguard water quality. The objective of the program is to protect natural resources, comply with environmental regulations and maintain farm productivity.[526]

(b) WTO Consistency

Support provided through this cost-share program confers a subsidy on recipient producers. As one of the stated objectives of the program is to maintain farm productivity, the subsidy is intended to have trade and/or production distorting effects. Therefore, support provided through this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Maryland is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

[526] *Maryland Agricultural Water Quality Cost-Share Program*, Maryland Department of Agriculture

21. MASSACHUSETTS

Agricultural producers in Massachusetts benefit from subsidies and support provided by the Department of Food and Agriculture through three general programs: Department of Agriculture Resources, Emergency Food Aid Assistance and Integrated Pest Management. The Budget for the Department of Agriculture reports the following as appropriations for Department programs:

2009 (Summary) $17,916,357[527]

The State of Massachusetts administers the following programs:

- Producer Security Fund
- Farm Viability Enhancement Program
- Agricultural Marketing Grants Program
- Aquaculture Grants Program
- Agro-Environmental Technology Grant Program
- Agricultural Business Training Program
- Agritourism Program
- Massachusetts Branding Program - Made with Pride
- Commodity Group Assistance Program
- Market Access Program
- Agricultural Environmental Enhancement Program - Water Quality Protection
- Groundwater Protection Program
- Lakes and Ponds Program
- “Biosecurities Dairy Facilities” Program and a “Tanker Inspection” Program
- Mastitis Program
- Integrated Pest Management Program
- Pesticide Applicator Continuing Education Program
- Agricultural Preservation Restriction Program
- Agricultural Signage Program
- Equine Program
- Bureau of Farm Products and Plant Industry
- Farm Viability Enhancement Program
- Farmers’ Market Program
- Farmland Stewardship Program
- Hauler-Sampler Program

[527] FY 2010 Budget – Department of Agricultural Resources General Appropriations Act

PART II - MASSACHUSETTS

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The Department of Food and Agriculture provides support exclusively to dairy producers in a limited way which is discussed below. However, there is not sufficient information available on cost to government under this program which is financed by farmer levies. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The recommended budget for programs operated by the Department of Food and Agriculture for 2009 is reported as $17,916,357, and the percentage allocation to dairy for Massachusetts in 2008 was 8.9%. Therefore, the total amount allocated to dairy production for 2009 is $1,594,555.

PART II - MASSACHUSETTS

Milk Producers Security Fund

(a) Program Description

The Milk Producers Security Fund was established to protect Massachusetts dairy farmers from milk dealers who default on payments for milk that they have already received. The fund is supported by assessments imposed on dairy farmers.[528]

(b) WTO Consistency

If this fund is self-financing, there would be no cost to government and this no subsidy. Based on the limited information available, it is not clear that the program is self-financing or that payments made under this program would be exempt from the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Massachusetts is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program. Indeed, based on the program description, this program appears to be funded by user fees.

[528] *Producer Security Fund,* Bureau of Milk Marketing, Massachusetts Department of Agricultural Resources

PART II - MASSACHUSETTS

Agricultural Preservation Restriction Program

(a) Program Description

This is a farmland preservation program that pays farmers and other owners of “prime” and “state important” agricultural land the difference between the “fair market value” and “agricultural value” of the land to ensure that the land remains in agricultural production. Landowners apply to participate in this program. Landowners receive payments in exchange for a permanent deed restriction that permanently precludes any use of the property that will have a negative impact on agricultural production.[529] As of 2008 the Massachusetts APR program has permanently protected over 725 farms and a total land area of over 61,855 acres.

(b) WTO Consistency

Payments made under this program should be included in the U.S. AMS on the basis that the support is intended to ensure continued agricultural production and, thus, would have trade and/or production distorting effects.

(c) Expenditures and Allocation

The budgetary information available from the Government of Massachusetts is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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529 *Agricultural Preservation Restriction Program*, Massachusetts Department of Agricultural Resources

PART II - MASSACHUSETTS

Farm Viability Enhancement Program

(a) Program Description

The Program offers farmers environmental, technical and business planning assistance to expand, modernize and upgrade their existing operations. Capital for the implementation of the improvements recommended in the viability plan is available in exchange for an agricultural covenant on the farm property for a fixed term at five or ten years. FY 2009 spending was $950,000 in direct grants to farms and over $160,000 was spend on technical assistance costs to consultants and business plan writers.[530]

(b) WTO Consistency

Grants provided under the Farm Viability Planning Program are subsidies for purposes of the WTO Agreement on Subsidies and Countervailing Measures and WTO Agreement on Agriculture. Based on the information available, it appears that expenditures under this program should be included in the U.S. AMS. This is particularly the case with respect to grants provided for seed capital on the basis that these grants are clearly intended to have trade and/or production distorting effects.

(c) Expenditures and Allocation

As noted, FY 2009 spending was $9,110,000.

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530 Farm Viability Enhancement Program, Massachusetts Department of Agricultural Resources

PART II - MASSACHUSETTS

Mastitis Program

(a) Program Description

The Mastitis Program offers assistance to dairy farmers by offering laboratory analysis of milk samples to identify problem areas in their herds to reduce the overall impact of mastitis on their herds and ultimately, on the quality of milk they produce.[531]

(b) WTO Consistency

This program would appear to be exempt from AMS pursuant to the criteria of Annex 2.2(e) of the WTO Agreement on Agriculture.

(c) Expenditures and Allocation

Based on the program description, this program appears to be funded by user fees.

531 Mastitis Program, Massachusetts Department of Agricultural Resources

PART II - MASSACHUSETTS

Hauler-Sampler Program

(a) Program Description

The Hauler-Sampler Program establishes a training and registration program for milk hauler-samplers. Milk haulers are required to take milk samples. These milk samples are tested for milk component contents (i.e., butterfat, protein, and other milk solids) as well as to gather quality information such as bacterial counts and to determine the presence of antibiotics.[532]

(b) WTO Consistency

This program would appear to be exempt from AMS pursuant to the criteria of Annex 2.2(e) of the WTO Agreement on Agriculture.

(c) Expenditures and Allocation

Based on the program description, this program appears to be funded by user fees.

[532] Hauler-Sampler Program, Massachusetts Department of Agricultural Resources

22. MICHIGAN

Agricultural producers in Michigan benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture is reported as follows:[533]

FY 2009 (Current Law)	$104,591,600
FY 2010 (Governor's Recommendation)	$83,499,900

The State of Michigan administers the following programs:

- Beginning Farmer Loan Program
- Agriculture Environmental Assurance Program
- Conservation Reserve Enhancement Program
- Advancing the Michigan Agriculture Environmental Assurance Program
- Preserving Farmland and Open Spaces Programs
- Farm Produce Insurance Program
- Farmland Preservation Program
- Forestry Assistance Program
- Groundwater Stewardship Program
- Migrant and Seasonal Farm Worker Program
- Migrant Labor Housing and Construction Grant Programs
- Migrant Labor Housing Construction Grants

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

[533] *Executive Budget Fiscal Year 2010*

PART II - MICHIGAN

The budget of the Department of Agriculture for 2009 was reported as $104,591,600, and the percentage allocation to dairy for Michigan in 2008 was 22.5%. Therefore, the total amount allocated to dairy production for 2009 is $23,533,110.

23. MINNESOTA

Agricultural producers in Minnesota benefit from subsidies and support provided by the Department of Agriculture and through the Agricultural Utilization Research Institute. The expenditures by the Department of Agriculture are reported as follows:[534]

FY 2009 (Gov. Rec.)	$45,294,000
FY 2010 (Gov. Rec.)	$38,950,000
FY 2011 (Gov. Rec.)	$38,950,000

The expenditures by the Agricultural Utilization Research Institute are reported as follows:

FY 2009 (Gov. Rec.)	$3,100,100
FY 2010 (Gov. Rec.)	$1,550,000
FY 2011 (Gov. Rec.)	$1,550,000

The State of Minnesota administers the following programs:

- Minnesota Rural Finance Authority (RFA)
    - Basic Farm Loan Program
    - Seller-Assisted Loan Program
    - Agricultural Improvement Loan Program
    - Restructure II Loan Program
    - Livestock Expansion Loan Program
    - Value-Added Ag Product Loan Program (Stock Loan Program)
- Agricultural Development Bond Program
- Agriculture Best Management Practices Loan Program
- Ag in the Classroom Mini-grant Program
- Aggie Bond Beginning Farmer Loan Program
- Low Interest Financing for Water Quality Improvement
- Methane Digester Loan Program
- Native Prairie Tax Exemption Program
- State Cost-Share Program
- Sustainable Agriculture Loan Program

534 January 2009 Governor's Recommendations, 2008-2009 Biennium, 2010-2011 Biennium, 2012-2013 Biennium, pg 13

PART II - MINNESOTA

- Minnesota Certification Program – Branding
- Dairy Profitability and Enhancement Team Grant Program
- Minnesota Grown Program
- Reinvest in State Reserve Program
- State Government Incentives for Renewable Energy
    - Renewable Energy Production Incentive
    - Renewable Energy Equipment Accelerated Depreciation
    - Wind and Photovoltaic Property Tax Exemption
    - Wind and Solar Energy Sales Tax Exemption
    - Solar Electric Rebate Program
    - Net Metering
    - Green Pricing
    - Agricultural Improvement Loan Program for Wind Energy
- Biodiesel Program
- Ethanol Program
- Conservation Programs
    - Agriculture Best Management Practices Loan Program
    - CREP-Conservation Reserve Enhancement Program
    - RIM Reserve Permanent Wetland Preserves
    - Agricultural Land Preservation Program
    - Energy & Sustainable Agriculture Program
    - Minnesota's Native Prairie Bank Program
    - Native Prairie Tax Exemption Program
    - State Cost-Share Program
    - MPCA Volunteer Water-Quality Monitoring
    - Minnesota Wetland Regulations
    - Minnesota Wetland Banking
- Invasive Species Program
- Noxious Weed Program
- Nursery Inspection and Certification Program
- Agricultural Liming Materials Program
- Anhydrous Ammonia Program
- Farmers' Market Nutrition Program
- Flood Assistance Program
- Incident Response Program
- Livestock-Friendly Counties Program
- Seed Regulatory Program
- State Agricultural Utilization Research Institute

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

PART II - MINNESOTA

Minnesota is an important dairy producing state, but we do not have precise information on dairy-specific expenditures. We have calculated the total value of the support attributable to dairy production on the basis of dairy's share of total state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total preliminary expenditures of the Department of Agriculture and the Agricultural Utilization Research Institute for 2009 were $48,394,000, and the percentage allocation to dairy for Minnesota in 2008 was 10.5%. Therefore, the total amount allocated to dairy production for 2009 is $5,081,370.

PART II - MINNESOTA

Agricultural Best Management Practices (BMP) Loan Program

(a) Program Description

This water quality program provides zero interest loans to local units of government who in turn provide low interest loans to individuals for Best Management Practices that help implement agricultural non-point source pollution priorities in local water plans.[535]

(b) WTO Consistency

This program provides support to producers by granting them low interest loans. Based on the information available, it is not clear that the expenditures under this program can be excluded from the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Minnesota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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535 *Agricultural Best Management Practices (BMP) Loan Program*, Minnesota Department of Agriculture

PART II - MINNESOTA

Agricultural Improvement Loan Program

(a) Program Description

The Agricultural Improvement Loan Program provides financing for farm improvements, including grain handling facilities, machine storage, erosion control, wells and manure systems. The borrower must be a Minnesota resident, a Minnesota domestic family farm corporation or a family farm partnership. The borrower or one of the borrowers must be the principal operator of the farm. Eligible borrowers must not have a net worth exceeding $409,000 (indexed for inflation). The Minnesota Rural Finance Authority may provide a loan of up to 45% of loans to a maximum value of $300,000. This program is intended to assist eligible farmers by improving production and efficiency and by increasing farm income.[536]

(b) WTO Consistency

Loans provided under this program are intended to support increased production. Therefore, expenditures made under this program should be included in the U.S. AMS on the basis that they are intended to have trade and/or production distorting effects.

(c) Expenditures and Allocation

The budget information available from the Government of Minnesota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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536 *Agricultural Improvement Loan Program,* Minnesota Department of Agriculture

PART II - MINNESOTA

Basic Farm Loan Program

(a) Program Description

This program assists individuals with a net worth less than $409,000 become full-time farmers. The program offers affordable financing, a reasonable down payment and assistance in terms of financial planning and farm management training. Commercial lenders provide loans under the program. The Rural Finance Authority will provide up to 45% of the loan up to a maximum of $200,000. The Rural Finance Authority will charge a reduced interest rate for its portion of the loan.[537]

(b) WTO Consistency

This program provides important support to eligible producers. To the extent that this program supports new entrants bringing new production on-line, the expenditures should be included in the U.S. AMS because they have trade and/or production distorting effects. To the extent that this program reduces the cost of farm ownership to new entrants, the expenditures should be included because they have trade distorting effects.

(c) Expenditures and Allocation

The budgetary information available from the Government of Minnesota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

537 *Basic Farm Loan Program*, Minnesota Department of Agriculture

PART II - MINNESOTA

Livestock Expansion Loan Program

(a) Program Description

This program "creates affordable financing" for improvements to land, buildings and other permanent structures used for livestock production. Eligible borrowers must: (i) be actively engaged in a livestock operation; (ii) have the ability to repay the loan; and (ii) have a net worth not exceeding $772,000. The Rural Finance Authority will provide up to 45% of the loan principal to a maximum of $400,000. The incentive to use this program is "an affordable fixed interest rate for a certain period of time".[538]

(b) WTO Consistency

Based on the information available, it is apparent that loans provided under this program are intended to increase production. Therefore, expenditures made under this program should be included in the U.S. AMS because they are intended to have trade and/or production distorting effects.

(c) Expenditures and Allocation

The budgetary information available from the Government of Minnesota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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538 *Livestock Expansion Loan Program*, Minnesota Department of Agriculture

PART II - MINNESOTA

Dairy Profitability and Enhancement Team Grant Program

(a) Program Description

The Dairy Profitability and Enhancement Team Grant project has been in existence since 1996. The program runs as mandated in Minnesota Laws 1997, Chapter 216, Section 7, Sub-division 4 which states:

"To expand the one-on-one educational delivery team system to provide appropriate technologies, including rotational grazing and other sustainable agriculture methods, applicable to small and medium sized dairy farms to enhance the financial success and long-term sustainability of dairy farms in the state. Activities of the dairy profit teams must be spread throughout the dairy producing regions of the state. The teams must consist of farm business management instructors, dairy extension specialists, and dairy industry partners to deliver the information and technological services."[539]

(b) WTO Consistency

This program would appear to encourage production and provide non-decoupled income support. It should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

539 *Dairy Profitability and Enhancement Team Grant*, Minnesota Department of Agriculture

PART II - MINNESOTA

Biodiesel Program

(a) Program Description

In 2007, Governor Tim Pawlenty unveiled a plan for taking the state's biodiesel requirement from the then current 2% blend in diesel fuel to a 20% blend in diesel fuel by 2015. This "B20" proposal relates to a statutory goal signed into law during the 2005 session and modified in 2008 to get intermediate blending mandates of B5 by May 1, 2009 and B10 by May 1, 2012.

(b) WTO Consistency

This program encourages production and provides price support. It should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Minnesota is not sufficient detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

PART II - MINNESOTA

Ethanol Program

(a) Program Description

This program was introduced because the 20-cent per gallon ethanol producer payment legislation initially provided the security required by lenders to invest in small farmer owned ethanol facilities. In addition to opposition from the petroleum industry, bankers were concerned that these plants could not compete in the market with large agribusiness processors. At the time, most ethanol production occurred in large distilleries outside the state. Minnesota corn prices were among the lowest in the country, which was an advantage for local processing.

Although these farmer-owned ventures have been successful to date, margins have been squeezed by periods of record high corn prices and low ethanol prices. It is hoped that ten years of payments will allow plants to retire debt, increase efficiency and develop new products and markets so they can survive the competition and price fluctuations in agricultural and petroleum markets. Unique aspects of the ethanol industry made these incentive payments necessary. The Minnesota ethanol industry is projected to contribute over $350 million in net annual benefit to the state.

Since low farm commodity prices have been common (until recently), these new corn processing plants were expected to represent a new strategy for the long-range profitability of farmers and farm communities. Vertical integration from the bottom up was expected to allow farmers to participate in the more profitable end of agriculture. Promoting farmer investments in the processing and marketing of other crop or livestock enterprises may not require the high level of state funding as did ethanol. It is hoped that such initiatives can reduce the need for continual funding of farm financial crisis measures allowing farmers to make it on their own.

(b) WTO Consistency

This program encourages production, provides price support and income support. It should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Minnesota is not sufficient detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

24. MISSISSIPPI

Agricultural producers in Mississippi benefit from subsidies and support provided by the Department of Agriculture, Commerce and Economic Development. The budget for the Department of Agriculture, Commerce and Economic Development for FY 2009 is $112,619,372.[540]

The State of Mississippi administers the following programs:

- Agribusiness Loan Program
- Mississippi Land, Water and Timber Resources Program
- Branding Program
- Farmers Market Nutrition Program
- Feed Fertilizer Lime and Plant Amendments
- Honey Bee Program
- Pesticide Programs
    - Pesticide Applicator Certification
    - Regulation of Crop Spraying
    - Pesticide Registration
    - Section 24c Registrations
    - Section 18 Emergency Exemptions
    - Dealer Licensing
    - Cooperative Agreements
- Plant Pest Program
- Seed Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture, Commerce and Economic Development do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others.

540 *State of Mississippi Budget Fiscal Year 2010*

However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The budget of the Department of Agriculture, Commerce and Economic Development for 2009 was $112,619,372, and the percentage allocation to dairy for Mississippi in 2008 was 1.2%. Therefore, the total amount allocated to dairy production for 2009 is $1,351,432.

PART II - MISSISSIPPI

Agribusiness Enterprise Loan Program

(a) Program Description

The Agribusiness Enterprise Loan Program is administered by the Mississippi Development Authority. Loans provided under the program may be used to finance buildings and equipment and for costs associated with the purchase of land (i.e., appraisals, title search, etc) but may not be used to purchase land. The Mississippi Development Authority participates by providing 20% of the total project cost or $200,000, whichever is less and $700,000 or 30% for agribusinesses that are retrofitting operations. All loans must be guaranteed by the Farm Services Agency, the Small Business Administration or a direct lender.[541] The portion of the loan provided by the Mississippi Development Authority under this program is interest free.[542]

(b) WTO Consistency

Based on the information available, it is apparent that loans provided under this program are intended to increase production. Therefore, expenditures made under this program should be included in the U.S. AMS on the basis that they are intended to have trade and/or production distorting effects.

(c) Expenditures and Allocation

The budgetary information available from the Government of Mississippi is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

[541] Mississippi Development Authority, *Agribusiness Enterprise Loan Program*

[542] *Agribusiness Enterprise Loan Program,* Financial Assistance Programs, Mississippi Development Authority, pg 2 of 7

25. MISSOURI

Agricultural producers in Missouri benefit from subsidies and support provided by the Department of Agriculture. The expenditures by the Department of Agriculture are reported as follows:[543]

FY 2009 (Expenditure)	$56,488,265
FY 2010 (Appropriation)	$64,142,114
FY 2011 (Request)	$61,093,776

The State of Missouri administers the following programs:

- Beginning Farmer Program
- Animal Waste System Loan Program
- Alternative Loan Program
- Single-Purpose Animal Facilities Loan Guarantee Program
- Missouri Value Added Loan Guarantee Program
- Missouri Value Added Grant Program
- New Generation Cooperative Incentive Tax Credit Program
- Agricultural Product Utilization Contributor Tax Credit Program
- Community Building Grant Program
- Crop and Livestock Guarantee Program
- Wine and Grape Tax Credit Program
- Timber Price Discovery Program
- Agriculture Environmental Program
- Agriculture Scholarship Program
- AgriMissouri Program
- Aquaculture Program
- Cattle Programs
    - Brucellosis Individual Certified Herds Program
    - Herd Certification
    - Tuberculosis-Free Accredited Herd Program
    - Johne's Certification Program
    - Bovine Leukosis Virus Free Program
- Crop and Livestock Guarantee Program

543 *Missouri Department of Agriculture Budget FY 2009-2011*, Missouri, pg 6-1

- Missouri Deer and Elk Programs
  - Brucellosis-Free Herd Certification for Cervidae
  - Tuberculosis Accredited Herd Program for Cervidae
  - Chronic Wasting Disease Voluntary Herd Agreement Program
- Heifer Replacement Program
- Pesticides and Water Quality State Management Plans
- Sheep and Goats Programs
  - Certified Brucellosis Free Herd Program for Goats
  - Accredited Tuberculosis-Free Herd Program for Goats
  - Voluntary Scrapie Flock Certification Program
  - Mandatory Scrapie Eradication Program
- Sustainable Agriculture Award Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

There are several Missouri programs which appear to be earmarked for dairy producers. These do not appear to be programs which require inclusion in AMS. Nor is there sufficient information to determine expenditures under the programs. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriations for the Department of Agriculture for 2009 were $64,142,114, and the percentage allocation to dairy for Missouri in 2008 was 3.5%. Therefore, the total amount allocated to dairy production for 2009 is $1,977,089.

PART II - MISSOURI

Alternative Loan Program

(a) Program Description

The Missouri Department of Agriculture offers direct loans through the Agriculture Development Fund to finance the production, processing and marketing needs of an alternative agricultural enterprise. An agricultural alternative project has been stated as a farm operation that is different from what traditional rural operations are currently doing.[544] An example of an alternative project would be taking a traditional enterprise and adding a related service, such as the butchering of a farm's own livestock and selling the meat itself, or the milling of a farm's own wheat and making baked goods. The maximum loan is up to $20,000, at 7.5% interest paid on a maximum 5 year term with semi-annual payments.[545]

(b) WTO Consistency

Based on the information available, it appears that this program provides loans to producers at below prevailing market rates and, on that basis, would confer a subsidy on the recipient. The program supports increased agricultural production and reduces costs for the specific recipient producer. Therefore, the total value of support provided through this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Missouri is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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544 Alternative Loan Program, Missouri Department of Agriculture
545 Ibid.

PART II - MISSOURI

Agricultural Product Utilization Contributor Tax Credit Program

(a) Program Description

The Missouri Agricultural and Small Business Development Authority is authorized to grant an Agricultural Products Utilization Contributor Tax Credit in an amount up to 100% of a contribution from a person, partnership, corporation, trust, limited liability company or other donor. The contribution must be made to the authority to be used for financial or technical assistance to a rural agricultural business as approved by the authority.[546]

(b) WTO Consistency

The tax credit provided by the State confers a subsidy on the recipient. As the tax credit is intended to provide financial or technical assistance to rural agricultural business concepts it would reduce the cost of those specific businesses and is intended to increase production thereby having trade and/or production distorting effects. Therefore, the total value of expenditures under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Missouri is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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546 Agricultural Products Utilization Contributor Tax Credit Program, Missouri Department of Agriculture

PART II - MISSOURI

New Generation Cooperative Incentive Tax Credit Program

(a) Program Description

The Missouri Agricultural and Small Business Development Authority provides New Generation Cooperative Incentive Tax Credits to induce producer member investment into new generation processing entities that will process Missouri agricultural commodities and agricultural products into value-added goods, provide substantial benefits to Missouri's agricultural producers, and create jobs for Missourians. The amount of a tax credit issued to a member may be the lesser of 50% of the member's cash investment or $15,000, except for any pro-ration of the member's tax credits. The tax credits may be transferred, sold, or assigned.[547]

(b) WTO Consistency

The tax credits provided through this program confer a subsidy on the recipient. The subsidy is intended to increase production and, therefore, should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Missouri is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

547 New Generation Cooperative Incentive Tax Credit Program, Missouri Department of Agriculture

PART II - MISSOURI

Missouri Value-Added Grant Program

(a) Program Description

The Missouri Value-Added Grant Program provides grants for projects that add value to Missouri agricultural products and aid the economy of a rural community. Grant applications will be considered for value-added agricultural business concepts that:

- Lead to and result in development, processing and marketing of new or expanded uses or technologies for agricultural products; and
- Foster agricultural economic development in Missouri's rural communities.

Applications are considered for expenses related to the creation, development and operation of a value-added agricultural business including: feasibility studies, marketing studies, marketing and business plans and consulting.[548]

(b) WTO Consistency

The grants provided through this program confer a subsidy on the recipient. The subsidy will offset the costs of the recipient producer. These subsidies are also intended to increase agricultural production. Therefore, the total value of expenditure made on account of these programs should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Missouri is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[548] Missouri Value-Added Grant Program, Missouri Department of Agriculture

PART II - MISSOURI

Missouri Value-Added Loan Guarantee Program

(a) Program Description

The Missouri Value-Added Loan Guarantee Program provides a 50% first loss guarantee to lenders who make agricultural business development loans for the acquisition, construction, improvement, or rehabilitation of agricultural property (i.e., land, buildings, structures, improvements, equipment and stock) used for the purpose of processing, manufacturing, marketing, exporting, and adding value to an agricultural product.[549]

(b) WTO Consistency

Based on the information available, the loan guarantees made under this program provide a subsidy that supports greater productive capacity among recipient producers. As the intention is to increase capacity, the total value of the expenditures under this program should be included in the U.S. AMS on the basis that they are intended to have trade and/or production distorting effects.

(c) Expenditures and Allocation

The budgetary information available from the Government of Missouri is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[549] Missouri Value-Added Loan Guarantee Program, Missouri Department of Agriculture

26. MONTANA

Agricultural producers in Montana benefit from subsidies and support provided by the Department of Agriculture and the Department of Livestock. The Budget for the Department of Agriculture is reported in the 2011 Biennial Budget as follows:[550]

FY 2008/2009	$12,713,317
FY 2010/2011	$18,066,562

The Budget for the Department of Livestock is reported in the 2011 Biennial Budget as follows:[551]

FY 2008/2009	$9,294,998
FY 2010/2011	$11,278,984

The State of Montana administers the following programs:

- FSA Subordination Loan Program
- Rural Assistance Loan Program
- Junior Agriculture Loan Program
- Beginning Farm/Ranch Loan Program
- Growth Through Agriculture Program
- Rural Community Development Grants
- Crop Hail Insurance Program
- Trade Show Assistance Program
- Agriculture Marketing and Business Development Program
- Montana's Choice Program
- Community Building Program
- Agriculture in the Classroom Program
- Commercial Feeds Program
- Ground Water Protection Program
- Fertilizer Program
- Anhydrous Ammonia Program
- Aquatic Weed Program

550 *Natural Resources & Transportation, 2011 Biennium Executive Budget*, pg C85
551 Ibid., pg C53

- Biological Weed Control Program
- Noxious Wed Seed Free Forage Program
- Noxious Weed Program
- Pesticide Programs
    - Pesticide education
    - Pesticides and groundwater to licensing
    - Pesticide products and commercial pesticide applicators
- Plant Quarantine Program
- Produce Program
- Seed Licensing and Inspection Program
- Vertebrate Pest Program
- Alfalfa Leaf-Cutting Bee Certification Program
- Mint and Mint Oil Production Program and Potato Seed Inspection Program
- Apiary Program
- Nursery Program
- Organic Certification Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture and the Department of Livestock do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total budget of the Departments of Agriculture and Livestock for 2010 is reported in the 2011 Biennial Budget as $29,345,546, and the percentage allocation to dairy for Montana in 2008 was 2.0%. As the Biennial Budget reports the total budget for two fiscal years, the budget for FY 2010 is one half of this amount or $14,672,773. Therefore, the total amount allocated to dairy production for FY 2010 is $586,911.

PART II - MONTANA

Growth Through Agriculture Program

(a) Program Description

The Growth Through Agriculture program was established to strengthen and diversify Montana's agricultural industry by assisting in the development of new agricultural products and processes. Two types of investment are available under this program: (i) a grant is an award of money without the expectation that the fund will be repaid, and (ii) a loan is an award of money with the expectation that all or a portion of the money will be repaid.[552]

(b) WTO Consistency

Based on the information available, it appears that the "investments" made under this program confer a subsidy on the recipient. As the objective of the program is to "strengthen and diversify" agriculture, its intention is to support increased agricultural production. Therefore, as the program is intended to have trade and/or production distorting effects, the total value of the expenditures under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of Montana is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[552] Montana Growth Through Agriculture Program, Montana Department of Agriculture

PART II - MONTANA

Rural Assistance Loan Program

(a) Program Description

The Rural Assistance Loan Program provides loans to producers with modest financial investment in agriculture to assist in the economic growth and welfare of Montana agriculture.

The maximum loan amount is $75,000 per individual. Borrowers may refinance loans up to the maximum of $75,000. Loans are made up to 80% of the value of the collateral used to secure the loan. A 20% down payment or additional collateral may be required to meet this guideline. Funds may be used to finance: agricultural property (i.e., livestock and machinery), agricultural improvements, annual operating expenses and the purchase of land.[553]

(b) WTO Consistency

Based on the information available, it appears that this program provides low cost loans on better terms that the eligible producers could receive from commercial lenders. Consequently, the loan program provides a subsidy. As the subsidy is intended to allow eligible producers to increase production and reduce costs, the total value of the expenditures under this program should be included in the U.S. AMS.

(c) Allocation to Dairy

The budgetary information available from the Government of Montana is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[553] Rural Assistance Loan, Montana Department of Agriculture

27. NEBRASKA

Agricultural producers in Nebraska benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture is reported as follows:[554]

FY 2008-2009	$18,519,508
FY 2009-2010	$18,725,232
FY 2010-2011	$19,037,944

The State of Nebraska administers the following programs:

- IDB-Based Agricultural Loan Program (Aggie Bonds)
- Beginning Farmer Tax Credit Program
- Farm Mediation Program
- Entomology and Apiary Program
- Scrapie Eradication Program
- Feed, Fertilizer, and Lime Programs
    - Agricultural Liming Materials Program
    - Feed Program
    - Fertilizer Program
- Noxious Weed Program
- Pesticide Program
- Potato Development Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being

554 *State of Nebraska, Biennial Budget FY 2009-10/FY 2010-11*, pg 81

overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the Department of Agriculture during this period were $18,725,232, and the percentage allocation to dairy for Nebraska in 2008 was 1.2%. Therefore, the total amount allocated to dairy production for 2009 is $224,703.

PART II - NEBRASKA

Beginning Farmer Tax Credit Program

(a) Program Description

The Beginning Farmer Tax Credit program encourages established farmers and ranchers to help beginning farmers and ranchers by agreeing to rent or lease agricultural assets for three years. Agricultural assets include: land, livestock facilities, machinery, livestock, etc. The rent charged under this agreement may be based on cash rent, share-crop, cow-calf shares, etc. The established farmer will receive a refundable tax credit equal to 10% of the cash rent or 15% of the value of the share crop rent received each year for three years.[555]

(b) WTO Consistency

The tax credit provided under this program confers a subsidy on established farmers and ranchers. This subsidy can be used to offset the costs of the specific established farmers and ranchers participating in this program. Therefore, the total value of the tax credit expenditures made under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available to us from the Government of Nebraska is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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555 Beginning Farmer Program, Nebraska Department of Agriculture

28. NEVADA

Agricultural producers in Nevada benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture is reported as follows:

FY 2008	$15,883,013
FY 2009	$16,055,433[556]
FY 2010	$13,324,586
FY 2011	$13,044,093[557]

The State of Nevada administers the following programs:

- Junior Agricultural Loan Program
- Nevada Grown - Branding Program
- Nonpoint Source (NPS) Pollution Management Program
- Section 8 Review Program
- Agricultural Mediation
- Nursery Program

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

556 *State of Nevada, Executive Budget 2007-2009, pg I-13*
557 *State of Nevada, Executive Budget 2009-2011 Biennium, pg I-11*

PART II - NEVADA

Appropriated expenditures by the Nevada Department of Agriculture during this period were $16,055,433, and the percentage allocation to dairy for Nevada in 2008 was 16.3%. Therefore, the total amount allocated to dairy production for 2009 is $2,617,036.

29. NEW HAMPSHIRE

Agricultural producers in New Hampshire benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture has reported the total estimated funds as follows:[558]

FY 2008 (Actual)	$3,740,000
FY 2009 (Adjusted)	$4,191,000
FY 2010 (Budget)	$4,756,000
FY 2011 (Estimate)	$4,849,000

The State of New Hampshire administers the following programs:

- Agricultural Lands Preservation Program
- Crop Insurance Program
  - Adjusted Gross Revenue (AGR) Program
  - Adjusted Gross Revenue-Lite (AGR-Lite) Program
- Dairy Regulatory Program
- Department of Agriculture Programs
  - Grant Programs
    - Mini-Grant Program
    - Integrated Pest Management (IPM) Grant Program
    - Agricultural Nutrient Management (ANM) Program
- Farm Products Quality Assurance Programs
- Farmland Protection Programs
- Organic Processors and Handlers Program
- Pesticide Control and Groundwater Program
- Plants and Insects Programs
  - Invasive Species
  - Hemlock Woolly Adelgid Program
  - Ginseng Program
- Seal of Quality Program
- Seed Law Program

[558] State of New Hampshire, Governor's Executive Budget Summary, FY 2010-11, pg 20

PART II – NEW HAMPSHIRE

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the New Hampshire Department of Agriculture, Markets and Food during this period were $4,191,000, and the percentage allocation to dairy for New Hampshire in 2008 was 27.7%. Therefore, the total amount allocated to dairy production for 2009 is $1,160,907.

PART II – NEW HAMPSHIRE

Dairy Regulatory Program

(a) Program Description

The Commissioner, of the New Hampshire Department of Agriculture, Markets & Food, is responsible for enforcing laws and rules pertaining to the weighing and purchase of milk from the farm. Licensing is required of any person who weighs or samples milk. In addition, every person who purchases milk or cream from producers within this state, to be either resold as milk or cream or manufactured into other dairy products, shall first obtain a license under this program.[559]

(b) WTO Consistency

This program appears to be exempt from AMS pursuant to Annex 2.2(e) to the WTO Agreement on Agriculture.

(c) Expenditures and Allocation

This is not a subsidy program. It is a normal function of government.

559 Department of Agriculture, Market & Food, State of New Hampshire, Dairy Regulatory Program

30. NEW JERSEY

Agricultural producers in New Jersey benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture has reported the total estimated funds as follows:[560]

FY 2008 (Expended)	$26,390,000
FY 2009 (Appropriation)	$22,463,000
FY 2010 (Recommended)	$24,629,000

The State of New Jersey administers the following programs:

- Cattle Health Assurance Program
    - Johne's Disease Program
- Equine Programs
    - New Jersey Sire Stakes Program
    - Horse Breeding and Development Program
    - Non-Racing Breeder Awards Program
- Farm Link Program
- Feed, Fertilizer and Lime Sampling Program
- Leadership Development Program
- Natural Resource Conservation Programs
    - Soil Erosion and Sediment Control Act Program
- Recycling Program
    - Pesticide Containers and Nursery Pots Program
    - Greenhouse Film Program
- Right to Farm Program
- Farmland Protection Program
- Seed Certification and Control Program
- Jersey Fresh Advertising and Promotional Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

[560] State of New Jersey Budget Fiscal Year 2009-2010, pg D-13

PART II – NEW JERSEY

The programs administered by the Department of Agriculture, other than health and inspection related programs, do not provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the New Jersey Department of Agriculture during this period were $22,463,000, and the percentage allocation to dairy for New Jersey in 2008 was 2.7%. Therefore, the total amount allocated to dairy production for 2009 is $606,501.

PART II – NEW JERSEY

Farmland Preservation Program

(a) Program Description

The Farmland Preservation Program seeks to protect farmland through the temporary or permanent purchase of development rights over the land. The intention is that the land can continue to be used for agricultural purposes and may not be developed or used for a non-agricultural use. Participating producers will retain the right to continue to farm their land.

(i) State Acquisition Program

Under this sub-program, landowners can either sell the development rights to their land and continue to own and farm the land, or sell their land outright. In both cases, the land is permanently deed-restricted for agriculture use. The State Agriculture Development Committee (SADC) provides counties with grants to fund 60-80% of the cost of purchasing development rights on approved farms.[561]

(ii) Fee Simple Purchase

Under this sub-program, farms are purchased from willing sellers at fair-market value then resold at auction subject to a deed restricting them to agricultural use only. Survey and title costs are paid by the state. The landowner is exempt from paying rollback taxes for farmland assessment.[562]

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561 *County Easement Purchase*; Farmland Preservation Program, New Jersey State Agriculture Development Committee

562 *Fee Simple Purchase*; Farmland Preservation Program, New Jersey Department of Agriculture

(iii) County Easement Purchase

Under this sub-program, landowners sell the development rights on their farmland to their County. They retain ownership of their land but agree to a permanent deed restriction that allows only agriculture use.[563]

(iv) Pinelands Preservation

Under this sub-program, landowners sell a development easement over their land. Landowners retain the land but are limited to agricultural use. The purchase price is negotiated with the landowner subject to the recommendations of two independent appraisers and a review by a state review appraiser. Appraisals generally reflect the value of the Pinelands Development Credits that have been assigned to the land.[564]

(v) Eight-Year Program

Under this sub-program, landowners agree to voluntarily restrict development on their land for a period of eight years in exchange for certain benefits, including soil and water conservation cost-sharing grants and protection from nuisance complaints, emergency fuel and water rationing, zoning changes and eminent domain actions.[565]

(b) WTO Consistency

The purchase of development rights confers a subsidy on the recipient landowner. The program ensures that land that would otherwise be developed remains in agricultural production. Therefore, as the program is intended to have trade and/or production distorting effects, the total value of the expenditures made under this program should be included in the U.S. AMS.

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563 *County Easement Purchase*; Farmland Preservation Program, New Jersey Department of Agriculture
564 *Pinelands Preservation Program*; Farmland Preservation Program, New Jersey Department of Agriculture
565 *Eight-Year Program*; Farmland Preservation Program, New Jersey Department of Agriculture

(c) Expenditures

The expenditures for this program is reported under the general fund of direct state services, and are as follows:[566]

2008	(Actual)	$1,740,000
2009	(Appropriated)	$1,838,000
2010	(Recommended)	$1,838,000

(d) Allocation to Dairy

This program does not provide support exclusively to dairy producers. Because, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We have not made a specific allocation to dairy for this program. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Actual expenditures on account of the Farmland Preservation Program during this period were $1,838,000, and the percentage allocation to dairy for New Jersey in 2008 was 2.7%. Therefore, the total amount allocated to dairy production for 2009 is $49,626.

566 *State of New Jersey Budget Fiscal Year 2009-2010,* pg D-13

31. NEW MEXICO

Agricultural producers in New Mexico benefit from subsidies and support provided by agencies, including the New Mexico Livestock Board and the Organic Commodity Commission. The Budget for the Livestock Board is reported as follows:[567]

FY 08 (2007-2008)	(Actual)	$7,024,500
FY 09 (2008-2009)	(Operating)	$6,055,900
FY 10 (2009-2010)	(Recommended)	$6,089,600

The Budget for the Organic Commodity Commission is reported as follows:[568]

FY 08 (2007-2008)	(Actual)	$388,900
FY 09 (2008-2009)	(Operating)	$396,300
FY 10 (2009-2010)	(Recommended)	$575,100

The State of New Mexico administers the following programs:

- Taste the Tradition Program
- Farm and Range Improvement Fund
- Predatory Wild Animals and Rodent Pests
- Range Management Plans
- Rangeland Protection
- Soil and Water Conservation District Act
- Watershed District Act

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by these agencies do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that

567 *FY 08, New Mexico, Budget in Brief, Fiscal Year 2009*, pg C2
568 *FY 09, FY 10, New Mexico, Budget in Brief, Fiscal Year 2010*, pg B2

this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total budget of the New Mexico Livestock Board and the Organic Commodity Commission for FY 2009 was $6,452,200, and the percentage allocation to dairy for New Mexico in 2008 was 43.7%. Therefore, the total amount allocated to dairy production for 2009 is $2,819,611.

32. NEW YORK

Agricultural producers in New York benefit from subsidies and support provided by the Department of Agriculture and Markets. The Budget for the Department of Agriculture and Markets has reported the appropriations as follows:[569]

FY 2008-2009 (Results)	$109,631,000
FY 2009-2010 (Enacted)	$109,190,000
FY 2011 (Projected)	$122,793,000

The State of New York administers the following programs:

- Food and Agriculture Security
- Ag in the Classroom - Child Agriculture Education
- Agriculture Non-point Source Abatement and Control Program
- Agriculture Producers Security Program - Farm Products Dealer Licensing Program
- Business Development Programs
- Department of Agriculture Programs
  - Agri-Business Child Development
  - Agricultural Districts
  - Agricultural Environmental Management
  - Agricultural Producers Security
  - Agricultural Workforce Certification Training Program
  - Animal Identification System
  - Cattle Health Assurance Program
  - Community Gardens Program
  - Egg Quality Assurance Program
  - Farm to School
  - Farmers' Market Nutrition Program
  - Farmland Protection Program
  - Grow New York
  - Horse Health Assurance Program
  - Organic Development and Assistance Program
  - Pride of New York Program
  - Produce Quality Assurance Program
  - Specialty Crop Block Grant Program

569 New York State, 2009-2010 Enacted Budget Financial Plan, pg T205

- Direct Marketing Program
    - Agricultural Environment Management Program
    - Farmland Protection Program
    - Market Enhancement Program
- Produce Quality Assurance Programs
- Tax Savings and Protections Programs
    - Right to Farm Protection
    - Income Tax Incentives
        - Farm Property School Tax Credit (Form IT-217 for individuals, estates & trusts, Form CT-47 for corporations)– a credit against personal income tax or corporate franchise tax equal to school property taxes paid on certain farm property.
        - Investment Credit (Form IT-212)– a tax credit for qualified structures, equipment, livestock and other tangible property and personal property.
    - Real Property Tax Benefits
        - Agricultural Assessment (Form RP-305)– a property tax reduction program that assesses agricultural property based on its value for farming versus development.
        - Benefit Assessment Limitation– a limitation on the imposition of benefit assessments for certain improvements on farms.
        - Commercial, Business or Industrial Real Property (Form RP-485-b)– a 10-year exemption for farm processing and marketing buildings.
        - New Farm Buildings (Form RP-483)– a 10-year exemption for newly constructed or reconstructed agricultural buildings.
        - Orchards and Vineyards (Form RP-305-e)– an exemption for agricultural land used solely for replanting or crop expansion in an orchard or vineyard.
        - Historic Barns (Form RP-483-b and IT-212-ATT)– an exemption and a credit for reconstruction or rehabilitation of barns that were constructed prior to 1936.
        - Storage Facilities (Form RP-483-a)– an exemption for silos, commodity, milk, and manure storage facilities.
        - Temporary Greenhouses (Form RP-483-c)
        - Woodlots Over 50 Acres (Form RP-480-a)
    - Sales Tax Exemptions
        - (Form ST-125) Exempts certain property and services used in agricultural production.

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

PART II – NEW YORK

The programs administered by the Department of Agriculture and Markets do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the New York Department of Agriculture and Markets during this period were $109,190,000, and the percentage allocation to dairy for New York in 2008 was 49.1%. Therefore, the total amount allocated to dairy production for 2009 is $53,572,519.

PART II – NEW YORK

Farmland Protection Program

(a) Program Description

New York State assistance payments are available to counties and municipalities to cover up to 75% of the total costs for implementation activities to protect viable farmland.[570] Under these programs, local government acquires the development rights to viable farmland thereby ensuring that it can only be used for agricultural purposes.

(b) WTO Consistency

The purchase of development easements confers a subsidy on landowners and ensures that land that would otherwise be developed remains in agricultural production. As the program is intended to have trade and/or production distorting effects, the total value of expenditures under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of New York is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

[570] Farmland Protection Program, New York Department of Agriculture and Markets

33. NORTH CAROLINA

Agricultural producers in North Carolina benefit from subsidies and support provided by the Department of Agriculture and Consumer Services. The Budget for the Department of Agriculture and Consumer Services has reported the appropriations as follows:[571]

FY (2008-09)	$61,314,179
FY (2009-10)	$59,718,202
FY (2010-11)	$59,454,549

The State of North Carolina administers the following programs:

North Carolina

- Series I Farm Real Estate Loans
- Beginning Farmer Loan Program (Series II)
- “Ag Start” Beginning Farmer Loans
- Agricultural Development Bonds
- Facilities Disaster Loans
- Agribusiness Loans
- Farm-to-School Program
- Food Safety Audit Verification Program
- Livestock Compliance and Evaluation Program
- Carolina Pesticide Disposal Assistance Program
- Plant Conservation Program
- Poultry Programs
- Small Dairy Pasteurizer Loan Programs
- Specialty Crops Program
- Tobacco Trust Fund

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture and Consumer Services do not appear to provide significant measurable support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy’s total share of state agricultural production. We recognize that this methodology will result in the

571 North Carolina Recommend Operating Budget, Natural and Economic Resources, Volume 5, pg 2

amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the North Carolina Department of Agriculture and Consumer Services during this period were $59,718,202, and the percentage allocation to dairy for North Carolina in 2008 was 1.9%. Therefore, the total amount allocated to dairy production for 2009 is $1,134,646.

34. NORTH DAKOTA

Agricultural producers in North Dakota benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture has reported the appropriations as follows:[572]

2007-2009 (Appropriations)	$112,101,724
2009-2011 (Recommendation)	$179,544,603

The State of North Dakota administers the following programs:

- Beginning Farmer Real Estate Loan Program
- Family Farm Loan Program
- AG PACE Program
- Established Farmer Real Estate Loan Program
- Irrigation Loan Program
- Beginning Farmer Chattel Loans
- Farm Operating Loan Program
- FSA Guaranteed Loan Purchase Program
- Regular BND Loan Participation
- First Time Farmer Finance Program (Aggie Bond)
- Dairy Pollution Prevention Program (DP3)
- Field Seed Program
- Land Owner Assistance Program (LAP)
- Value-Added Agriculture Equity Loan Program
- Livestock Loan Guarantee Program
- Livestock Waste Management System Program
- Marketing Assistance Program
- Pesticide Programs
    - Pesticide Registration Program
    - Pesticide Enforcement and Compliance Program
- Pride of Dakota
- State Seed Department Regulatory Program
- Water Resource Programs
    - Water Supplies – municipal, industrial, agricultural; rural and other community programs; irrigation, recreation and fish and wildlife;
    - Flood Control
    - Floodplain Management

[572] *North Dakota Legislative Council, Comparisons of 2007-09 Appropriations and 2009-11 Appropriations*

- Drought Response
- Dams, dam safety
- State Water Management Plan
- Water Conservation
- Wellhead Protection Program
- Subsurface Minerals Program
- Underground Injection Control Program Class III
- Natural Preserves Program
- Water Quality – Management
  - Forestry Best Management Practices-Voluntary Program
- Point Source Pollution
  - Coal Exploration Program
- Non-Point Source Pollution
  - ND Water Protection Strategy for Pesticides
  - Control of Pollution from Certain Livestock Enterprises
- Drinking Water Quality
- Surface Water Quality Protection
- Ground Water Quality Protection
  - Underground Injection Control Program
- Wetlands
  - ND State Waterbank Program
- Water Allocation
- Tribal Water Rights

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not appear to provide significant and measureable support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the North Dakota Department of Agriculture during 2009 to 2011 were reported as $179,549,603, and the percentage allocation to dairy for North Dakota in 2008 was 1.0%. As this budget covers two fiscal years, one half of this amount, or $89,774,801, is the total budget for FY 2009. Therefore, the total amount allocated to dairy production for 2009 is $897,748.

PART II – NORTH DAKOTA

AgPACE Program (Irrigation Loan)

(a) Program Description

AgPACE Program is an interest rate buy-down program available to farmers to create an on-farm business integrated into the farm operation. The interest rate buy-down is up to 5% below yield rate. The maximum buy-down per borrower may not exceed $20,000 per biennium with a lifetime cap of $60,000.

The North Dakota State Water Commission (NDSWC) is charged with permitting and monitoring for irrigation systems The NDSWC provides additional $20,000 for a total buy-down of $40,000 for first time borrowers.[573]

(b) WTO Consistency

Irrigation permits production where it might not otherwise occur. It also enhances production yields. Therefore, this program which encourages production should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the Government of North Dakota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[573] Funding Assistance Programs for Irrigation Development in North Dakota, Bank of North Dakota, March 2008

35. OHIO

Agricultural producers in Ohio benefit from subsidies and support provided by the Department of Agriculture. The Budget for the Department of Agriculture has reported the appropriations as follows:[574]

FY 2006 (Actual)	$54,574,000
FY 2007 (Estimated0	$50,926,000
FY 2008 (Recommended)	$49,915,000
FY 2009 (Recommended)	$49,805,000

The State of Ohio administers the following programs:

- Agricultural Easement Purchase Program
- Agricultural Easement Donation Program
- Division of Markets Program - Domestic and International
  - Regulatory Programs *(Ohio Department of Ag (ODA) regulates industry in these areas)*
    - Administration
    - Amusement Ride Safety
    - Animal Disease Diagnostic Lab
    - Animal Industry
    - Auctioneer Program
    - Communications & Media Relations
    - Consumer Analytical Laboratory
    - Dairy
    - Dog Fighting Task Force
    - Enforcement
    - Food Safety
    - Livestock Environmental Permitting Program
    - Meat Inspection
    - Plant Industry
      - Apiary; Apiculture
      - Feed & Fertilizer
      - Grain Warehouse
      -

[574] *State of Ohio, Department of Agriculture,* Budget For FYs 2008 and 2009, pg Section E, A 2 of 15

        - Pesticide Regulation
        - Plant Pest Control
        - Seed Section
      - Weights & Measures
    - Special Programs *(ODA offers assistance in these areas)*
      - Century Farm Recognition
      - Clean Ohio Fund
      - Fairs - County & Independent
      - Family Farm Loan Guarantee
      - Farmland Preservation
      - Ohio Grape Industries Program
      - Homeland Security & Bioterrorism
      - Markets
      - OHIO PROUD
      - Ohio Rural Development Partnership
      - Tobacco Program
- Scioto River Watershed Conservation Reserve Enhancement Program
- Tobacco Program
    - Indemnity Payment Program
- Watershed Programs
    - Watershed Planning Program
    - Watershed Coordinator Grants Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by the Ohio Department of Agriculture during this period were $49,805,000, and the percentage allocation to dairy for Ohio in 2008 was 12.6%. Therefore, the total amount allocated to dairy production for 2009 is $6,275,430.

PART II – OHIO

Farmland Preservation

(a) Program Description

Farmland Preservation educates the public about the importance of saving this resource. It assists farmers and local officials with their farmland protection efforts. The landowners will retain ownership in the land subject to a development easement that will prohibit any use for the land other than agricultural use.[575]

(b) WTO Consistency

The sale of development rights confers a subsidy on the recipient landowner. The objective of the program is to ensure that agricultural land remains in agricultural production, thus the program is intended to have trade and/or production distorting effects. Therefore, the total value of expenditures under this program must be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the State of Ohio does not allow us to determine the actual expenditures made under this program.

575 *Farmland Preservation*, Ohio Department of Agriculture

PART II – OHIO

Dairy Program

(a) Program Description

The Dairy Division helps to ensure that milk and dairy products are wholesome and safe for consumption. The division inspects, licenses, and maintains records on Ohio's 2,390 Grade A milk producers, 895 manufacture milk producers, as well as milk haulers, milk processors, milk transfer stations, and milk receiving stations in Ohio. Licensing and inspecting these facilities helps to ensure the sanitary production, processing, and transportation of these products.[576]

(b) WTO Consistency

This program is exempt from AMS pursuant to Annex 2.2(e) to the WTO Agreement on Agriculture.

(c) Expenditures and Allocation

This program is for consumer protection. It is a normal function of government.

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[576] *Dairy Division*, Ohio Department of Agriculture

36. OKLAHOMA

Agricultural producers in Oklahoma benefit from subsidies and support provided through the Department of Agriculture, Food and Forestry, the Boll Weevil Eradication Organization, the Conservation Commission, the Peanut Commission and the Wheat Commission. The expenditures for these programs are reported as follows:

	2007 Actual	2008 Actual	2009 Budget
Department of Agriculture,[577] Food & Forestry	$55,144,000	$53,588,000	$58,019,000
Boll Weevil Eradication[578] Organization	$1,525,000	$994,000	$1,154,000
Conservation Commission[579]	$21,535,000	$24,071,000	$44,382,000
Peanut Commission[580]	$114,000	$156,000	$177,000
Wheat Commission[581]	$968,000	$1,403,000	$2,437,000
Total	$79,286,000	$80,212,000	$106,169,000

The State of Oklahoma administers the following programs:

- Agriculture Linked Deposit Program
- Oklahoma Animal Health Inspection Program
- Oklahoma Concentrated Animal Feeding Program
- Oklahoma Enhancement and Diversification Program
- Oklahoma Domestic Programs
- Oklahoma Economic Development Program
- Oklahoma Education Programs
    - Retired Educators for Agricultural Programs (REAP)
    - Environmental & Sustainable Agriculture Program
- Oklahoma International Programs
- Oklahoma Registered Poultry Feeding Operations Program
- Oklahoma Registered Poultry Waste Transfer Program
- Oklahoma Registered Poultry Waste Applicators Program

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577 *Department of Agriculture, Food and Forestry,* Expenditures by Fund, FY 2010 Executive Budget, pg 18
578 *Boll Weevil Eradication Organization,* Expenditures by Fund, FY 2010 Executive Budget, pg 23
579 *Conservation Commission,* Expenditures by Fund, FY 2010 Executive Budget, pg 28
580 *Peanut Commission,* Expenditures by Fund, FY 2010 Executive Budget, pg 30
581 *Wheat Commission,* Expenditures by Fund, FY 2010 Executive Budget, pg 33

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by these agencies do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Appropriated expenditures by these agencies during this period were $106,169,000, and the percentage allocation to dairy for Oklahoma in 2008 was 3.7%. Therefore, the total amount allocated to dairy production for 2009 is $3,928,253.

PART II – OKLAHOMA

Agriculture Linked Deposit Program

(a) Program Description

This program allows Oklahoma lenders to make loans available to "at risk" farmers and ranchers and alternative agricultural products at low rates. The State Treasurer makes linked deposits with the lending institution which, in turn, allows the lending institution to make loans to eligible recipients at 3% below the U.S. Treasury note rate.

Eligible "at risk" farmers and ranchers must have a debt to asset ratio of at least 55%. The maximum loan amount is $350,000. The maximum loan for alternative agricultural products under this program is $1,000,000.[582]

(b) WTO Consistency

By providing loans to eligible recipients at below market rates, this program confers a subsidy on recipient producers. As the apparent purpose of this program is to increase agricultural production, the total value of expenditures under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The budgetary information available from the State of Oklahoma does not allow us to determine the level of expenditures made under this program.

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582 *Oklahoma Agricultural Linked Deposit Loans,* Oklahoma Cooperative Extension Service, Division of Agricultural Sciences and Natural Resources

37. OREGON

Agricultural producers in Oregon benefit from subsidies and support provided by the Department of Agriculture. The total funding for agriculture programs operated by the Department of Agriculture is reported in the Biennial Budget as follows:[583]

2005-07	(Actual)	$73,298,181
2007-09	(Approved)	$81,115,162
2009-11	(Gov. Balanced)	$82,430,354

The State of Oregon administers the following programs:

- Farmworkers Housing Development Account
- Oregon Farm Worker Housing Tax Credit Program
- OR-OSHA Training and Education Grants (Oregon Occupational Safety and Health Division)

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding for the Department of Agriculture for 2009, $41,215,177, is determined by taking half of the Biennial Budget for 2009 – 2011. The percentage allocation to dairy for Oregon in 2008 was 9.3%. Therefore, the total amount allocated to dairy production for 2009 is $3,833,011.

583 *Department of Agriculture,* Natural Resources, 2009 – 2011 Governor's Balanced Budget, pg F-5

38. PENNSYLVANIA

Agricultural producers in Pennsylvania benefit from subsidies and support provided by the Department of Agriculture. The total funding for agriculture programs operated by the Department of Agriculture is reported as follows: [584]

FY 2007-08	(Actual)	$265,586,000
FY 2008-09	(Available)	$252,489,000
FY 2009-10	(Budget)	$226,766,000

The State of Pennsylvania administers the following programs:

- Machinery and Equipment Loan Fund (MELF)
- Next Generation Farmers (NGF)
- Small Business First Fund (SBFF)
- Small Business Administration (SBA 504)
- Chemsweep Pesticide Disposal Program
- Clean and Green Program
- Crop Insurance Program
- Department of Ag Producer Programs
    - Community Based Programs
        - Farmers Market Nutrition Program (FMNP)
    - Dairy Programs
        - Dairy Animal Care and Quality Assurance Program (DACQA)
        - PA Milk Marketing Board
        - Milk Sanitation Program
    - Farm Labor
        - H2A Worker Program
    - Farmland Programs
        - Agricultural Security Areas Program
        - Clean and Green Program
        - Conservation Easement Purchase Program
        - Installment Purchase Program
        - Land Trust Reimbursement Program
    - Funding
        - AGR-Lite Program
        - Agricultural Rural Youth Grant
        - Crop Insurance Program

584 *Summary by Fund and Appropriation, 2009-10 Governor's Executive Budget, pg E8.6*

        - Farm Safety and Occupational Health Act
        - Next Generation Farmer Loan Program
    - Marketing Programs
        - Farmers Market Nutrition Program
        - Pennsylvania Preferred Program
        - Simply Delicious…Simply Nutritious
    - Organic Programs
        - Organic Foods
        - Organic Cost Share
    - Production Agriculture
        - Dairy Industry
        - Swine Industry
    - Recognition
        - Century and Bicentennial Farm Program
- Farm Safety and Occupational Health Programs
    - Curriculum and Instructional Development Program
    - Small Grant Program
    - Tuition Assistance Program
- Farmers Market Nutrition Program
- Installment Purchase Program
- Land Trust Reimbursement Grant Program
- Nutrition for Women, Infants, Children (WIC) Program
- Seasonal Farm Labor Camp Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

While Pennsylvania does have programs which are directed specifically at dairy producers, we do not have details of expenditures on such programs. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding for the Department of Agriculture for 2009 was $226,766,000, and the percentage allocation to dairy for Pennsylvania in 2008 was 34.3%. Therefore, the total amount allocated to dairy production for the Department of Agriculture in 2009 is $77,780,738.

PART II – PENNSYLVANIA

Pennsylvania also has a Milk Marketing Board which is separate from the Department of Agriculture and has its own budget expenditures.

Expenditures in 2009 amount budgeted was $2,894,000 for the board, in which 100% is allocated to dairy.

This amount has been added to the 34.3% allocation to dairy of the Department of Agriculture, to give a total state allocation to dairy of $80,674,738.

PART II – PENNSYLVANIA

Agricultural Security Areas

(a) Program Description

The Agricultural Security Area program is intended to protect farmland. Farm landowners may establish areas in which agriculture is the primary activity. Participating farmers are entitled to special consideration from local and state government agencies.[585]

(b) WTO Consistency

Special consideration and protection is provided to participating farm landowners or farmers in exchange for their agreement to continue farming would constitute support. Although the "special consideration" is not specifically identified, it would likely result in reduced costs for producers in the form of foregone revenue. In these circumstances, the subsidies provided to producers would provide a direct benefit to participating producers and is intended to ensure continued farming on the protected land. Consequently, any support provided under this program should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Pennsylvania is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

585 *Agricultural Security Areas (ASA)*, Pennsylvania Department of Agriculture

PART II – PENNSYLVANIA

Installment Purchase Program

(a) Program Description

The Installment Purchase Program is a farmland preservation program. Under this program, farmers can apply to sell easements to the Commonwealth over their land. These easements will restrict the covered land to agricultural use. Under this program, easements are purchased by the Commonwealth over a 20-30 year period. The 30 year pay-out period has two advantages for producers. First, the payments include a tax exempt interest payment. Second, any capital gains realized on the sale can be deferred for 30 years.[586]

(b) WTO Consistency

Based on the information available, the Commonwealth provides subsidies to participating landowners in the form of the payments made under this program. The landowners must continue to use the land for agricultural purposes and can use the monies received from the Commonwealth for any purpose, including to offset their operating costs or to make improvements. As the purpose of the program is to maintain farmland, payments made under the program are intended to have production and/or trade distorting effects. Consequently, the value of the support provided through this program must be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Pennsylvania is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[586] *American Farmland Trust, Fact Sheet IPA*

PART II – PENNSYLVANIA

Dairy Animal Care and Quality Assurance Program (DACQA)

(a) Program Description

Today's competitive market place is making quality assurance an essential consideration for the dairy industry. This program provides validation that milk, meat, and live animals from Pennsylvania's dairies are produced under best management practices for food safety, biosecurity, and animal health.

DACQA is designed to protect market access for Pennsylvania's dairies by assuring quality standards for procedures and management, yet be flexible enough to accommodate the needs and goals of a diverse dairy industry. In addition to the program requirements, producers may select from a variety of options including the Milk Quality Module, Biosecurity Module, and Johne's Disease Module. Future modules will become available as the program continues to develop.

(b) WTO Consistency

This program would appear to be exempt from AMS pursuant to Annexes 2.2(b) and (e) to the WTO Agreement on Agriculture.

(c) Expenditures and Allocation

The budgetary information available from the Government of Pennsylvania is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

PART II – PENNSYLVANIA

Pennsylvania Milk Marketing Board

(a) Program Description

The mission statement of the Milk Marketing Board is:

> "To ensure that Pennsylvania's dairy industry remains vital by providing a regulatory environment that facilitates a safe, adequate supply of wholesome milk while providing security for its dairy farmers and milk dealers; and for the public health and welfare of consumers."[587]

Therefore by law, the board is responsible to supervise, investigate and regulate the entire milk industry of Pennsylvania, including the production, transportation, disposal, manufacture, processing, storage, distribution, delivery, handling, bailment, brokerage, consignment, purchase and sale of milk and milk products, and including the establishment of reasonable trade practices, systems of production control and marketing area.[588] This Board is separate from the Department of Agriculture.

(b) WTO Consistency

Pennsylvania's administered price system requires that certain products be sold on the export market at below the set domestic price. By requiring that these products be sold, for export, at a price below the prevailing domestic price, Pennsylvania is providing an export subsidy for purposes of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures.

A subsidy is a financial contribution by government that confers a benefit on the recipient. In this case, purchasers of certain exported dairy products receive the benefit of purchasing those products at a price below the prevailing domestic market price. As the Milk Marketing Board establishes the domestic price and export price of those products, benefit conferred on the purchaser in the form of lower prices is conferred by government. Thus, the administered

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587 *Milk Marketing Board*, Governor's Executive Budget, 2009-10, pg E29.1
588 *Milk Marketing Law*, Pennsylvania Department of Agriculture

pricing confers a subsidy. The subsidy is an export subsidy because it is only provided on the export sale of the specific products.

The total value of the export subsidy is the difference between the domestic and export price of the specific product multiplied by the total volume of exported products. This amount, which is not tied to the budgetary allocation to operate the pricing mechanism, must be notified to the WTO and counted against the U.S. obligation on total export subsidies.

(c) Expenditures and Allocation

The Pennsylvania Governor's Budget reports the following as the total allocation for the Milk Marketing Board:[589]

2007-2008	(Actual)	$2,814,000
2008-2009	(Available)	$2,842,000
2009-2010	(Budget)	$2,894,000

The Milk Marketing Board is intended to benefit state dairy producers. Accordingly, 100% of the $2,894,000 for FY 2009 in actual expenditures on this program is allocated to dairy for the years indicated. Since the Milk Marketing Board is separate from the Department of Agriculture, this allocation to dairy is added to the 10.03% Department of Agriculture allocation to dairy.

[589] *Milk Marketing Board*, 2009-2010 Governor's Executive Budget, Commonwealth of Pennsylvania, pg E29.4

39. RHODE ISLAND

Agricultural producers in Rhode Island benefit from subsidies and support provided by the agriculture programs of the Department of Environmental Management, Bureau of Natural Resources. The total funding for these agriculture programs is reported as follows:[590]

FY 2007 (Enacted)	$43,213,110
FY 2008 (Revised)	$43,877,147
FY 2009 (Recommended)	$47,558,018

The State of Rhode Island administers the following programs:

- Rhode Island Agrotourism Program
- Rhode Island Department of Agriculture Functional Units
  - Animal Health Unit
  - Mosquito Abatement Coordination Unit
  - Pesticide Unit
  - Agriculture/Marketing and Promotion Unit
  - Farmland Ecology Unit
  - Plant Industry Unit

Many of these programs are state level vehicles for delivering USDA funding and services.

The agriculture programs administered by the Department of Environmental Management do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

590 *Department of Environmental Management*, Rhode Island State Budget FY 2009, pg 411

PART II – RHODE ISLAND

The total funding for the agriculture programs administered by the Bureau of Natural Resources for 2009 was $47,558,018, and the percentage allocation to dairy for Rhode Island in 2008 was 5.9%. Therefore, the total amount allocated to dairy production for 2009 is $2,805,923.

40. SOUTH CAROLINA

Agricultural producers in South Carolina benefit from subsidies and support provided by the Department of Agriculture. The total funding for agriculture programs operated by the Department of Agriculture is reported as follows: [591]

FY 2007-08	(Actual)	$19,904,279
FY 2008-09	(Actual)	$14,815,495
FY 2008-09	(Appropriation)	$15,688,554

The State of South Carolina administers the following programs:

- Agribusiness Development Program
- Marketing and Promotion Program
- Certified SC Grown Program
- Small Farms and Farmers Market Nutrition Program
- Agritourism

Many South Carolina programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

591 *Accountability Report Appropriation/Expenditures,* South Carolina Department of Agriculture, 2008 – 2009 Accountability Report, pg 8

PART II – SOUTH CAROLINA

The total funding for the Department of Agriculture for 2008-09 was $15,688,554, and the percentage allocation to dairy for South Carolina in 2008 was 2.9%. Therefore, the total amount allocated to dairy production for 2009 is $454,968.

41. SOUTH DAKOTA

Agricultural producers in South Dakota benefit from subsidies and support provided by the Department of Agriculture. The total funding for agriculture programs operated by the Department of Agriculture is reported as follows: [592]

FY 2008 (Actual)	$28,921,230
FY 2009 (Actual)	$30,192,719
FY 2009 (Budgeted)	$44,349,937
FY 2010 (Requested)	$40,661,011

The State of South Dakota administers the following programs:

- AgFinance Counseling Program
- Agriculture Loan Programs
    - Value-Added Livestock Underwriting Program
    - Livestock Loan Participation Program
    - Beginning Farmer Bond Program
    - Rural Development Loan Participation Program
    - Junior Livestock Loan Guaranty Program
    - Cooperative Stock Guarantee Program
    - Agribusiness Bond Program
    - Program/Project: Conservation Tillage Loan
    - Program/Project: Livestock Nutrient Management Bond Program
    - Program/Project: Value Added Agribusiness Relending Program
- Assistance Programs - Feed Finder and Harvest Hotline
    - Programs Administered by the South Dakota Department of Agriculture (SDDA)
        - Building Our South Dakota Rural Communities (BOSDRC) Grants
        - Conservation Tillage Loan
        - Cooperative Stock Guaranty
        - Junior Livestock Guaranty
        - Livestock Loan Participation
        - Rural Development Ag Loan Participation
        - Value Added Livestock Underwriting Guaranty
    - Programs Administered by the Value Added Finance Authority (VAFA)
        - Agribusiness Bond
        - Beginning Farmer Bond

[592] *03 – Agriculture*, Governor's Recommended FY 2011 Budget, South Dakota

        - Livestock Nutrient Management Bond
        - Value Added Agribusiness Relending Program
- Business Development Programs
- Farm Loan Mediation Program
- Livestock Development and Marketing Programs
- Value-Added and Crop Marketing Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding for the Department of Agriculture for 2009 was $44,349,937, and the percentage allocation to dairy for South Dakota in 2008 was 4.2%. Therefore, the total amount allocated to dairy production for 2009 is $1,862,697.

PART II – SOUTH DAKOTA

Livestock Loan Participation Program

(a) Program Description

This program allows farmers and ranchers to obtain livestock loans through a local lender. The Department of Agriculture participates in up to 50% of the loan to a maximum of $100,000. The maximum term of the loan is 5 years.[593]

(b) WTO Consistency

Based on the information available, it appears that the program provides support to farmers and ranchers that permit them to obtain loans for livestock purchase. In these circumstances, the Department's participation in the loans likely provides a subsidy to the recipient farmers and ranchers. As the subsidy offsets the costs of specific farmers and ranchers, and allows them to obtain stock and increase production, the value of these subsidies should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of South Dakota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

593 *Livestock Loan Participation, AgDevelopment, South Dakota Department of Agriculture*

PART II – SOUTH DAKOTA

Value-Added Livestock Underwriting Program (VALU) Guaranty

(a) Program Description

This program allows farmers and ranchers to obtain livestock "purchase money" with up to a 50% guarantee on a livestock purchase loan through a local center. Guarantees are provided on loans up to a maximum of $50,000. The maximum term of the loan is 26 months.[594]

(b) WTO Consistency

Based on the information available, it appears that the program provides support to farmers and ranchers by permitting them to obtain "purchase money". In these circumstances, the Department's participation likely provides a subsidy to the recipient farmers and ranchers. As the subsidy offsets the costs of specific farmers and ranchers, and allows them to obtain stock and increase production, the value of these subsidies should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of South Dakota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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594 *Value-Added Livestock Underwriting Guaranty*, AgDevelopment, South Dakota Department of Agriculture

PART II – SOUTH DAKOTA

Rural Development Loan Participation Program

(a) Program Description

This program allows eligible farmers, ranchers or agricultural businesses to obtain lower cost loans. The Department can provide up to 80% of a loan provided by a local lender. Eligible projects must be value-added production, processing, marketing or exporting of South Dakota agricultural commodities. The maximum participation amount is $300,000 with a maximum term of 10 years.[595]

(b) WTO Consistency

Based on the information available, this program provides support in the form of lower cost loans that support agricultural production or marketing. Thus, the subsidy provided offsets the costs of specific producers and is intended to have trade and/or production distorting effects. Consequently, the support provided under this program should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of South Dakota is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[595] *Rural Development Agricultural Loan Participation*, AgDevelopment, South Dakota Department of Agriculture

PART II – SOUTH DAKOTA

Biomass Ethanol Program

(a) Program Description

South Dakota imposes a $0.22 per gallon tax on gasoline and a $0.20 per gallon tax on gasohol.[596] "Gasohol" is an ethanol-blend fuel that contains ethyl alcohol of at least 99% purity typically derived from agricultural products.[597]

(b) WTO Consistency

The reduced tax rate imposed on gasohol confers a subsidy in the amount of the difference between the gasohol tax rate and the gasoline tax rate. This subsidy only applies to gasohol made using ethanol produced from cereal grains. Therefore, this subsidy supports and is directly tied to the production of cereal grains. In these circumstances, the value of this subsidy should be included in the U.S. AMS.

(c) Expenditure and Allocation to Dairy

The total value of expenditures under this program is not available, therefore, we cannot estimate any benefit on account of this program.

596 *South Dakota, Legislative, Fuel taxation, 10-47B-4*
597 Ibid., *10-47B-3(10)*

42. TENNESSEE

Agricultural producers in Tennessee benefit from subsidies and support provided by the Department of Agriculture. The total funding for agriculture programs operated by the Department of Agriculture is reported as follows: [598]

FY 2007-08	(Actual)	$104,211,800
FY 2008-09	(Estimated)	$98,668,000
FY 2009-10	(Recommended)	$91,199,100

The State of Tennessee administers the following programs:

- Department Ag Water Resources Programs
    - Water Resources Section; the Nonpoint Source Program (TDA-NPS)
        - BMP Implementation Projects
        - Monitoring Projects
        - Educational Projects
    - Agricultural Resources Conservation Fund (TDA-ARCF).
- Market Development Programs
    - Agri-business Development and Forest Industry Development
    - International Marketing
    - Domestic Marketing
    - Agricultural Development Fund
    - Market News Service
    - Fruit and Vegetable Inspection
    - Agricultural Fairs and Exhibitions
    - Oscar Farris Tennessee Agricultural Museum
- Nonpoint Source Pollution Agriculture Program
- Nonpoint Source Pollution Program

Many of the programs delivered by the State of Tennessee are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy

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598 *State of Tennessee, The Budget, Fiscal Year 2009-10*, pg B-340

production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

Total funding for the Department of Agriculture for 2009 was $91,199,100, and the percentage allocation to dairy for Tennessee in 2008 was 6.1%. Therefore, the total amount allocated to dairy production for 2009 is $5,563,145.

43. TEXAS

Agricultural producers in Texas benefit from subsidies and support provided by the Texas Department of Agriculture and the Texas AgriLife Research. The total funding for agriculture programs supported through these programs is reported as follows:

Funding for programs administered by the Department of Agriculture is reported as follows:[599]

FY 2008 (Estimated)	$63,586,759
FY 2009 (Budget)	$63,970,899
FY 2010 (Required)	$67,867,930

Funding for programs administered by the Texas AgriLife Research is reported as follows:[600]

FY 2008 (Estimated)	$73,123,847
FY 2009 (Budget)	$68,952,016
FY 2010 (Required)	$71,377,016

The State of Texas administers the following programs:

- Ag Finance Programs
    - Agricultural Finance Programs Texas Agricultural Finance Authority (TAFA)
        - Linked Deposit Program
        - Young Farmer Loan Guarantee Program
        - Rural Municipal Finance Program
- Ag Loan Programs
    - Young Farmer Loan Guarantee Program
    - Linked Deposit Program
- Water Conservation Grants Program
- Water Conservation Loan Program
- Branded - Market Access Program (MAP)
- Go Texan Program
- Cooperative Inspection Program

599 Agency 551 – Department of Agriculture, 2010-2011 Legislative Appropriation Request, pg 6, 2.B
600 Agency 556 – Texas AgriLife Research, 2010-2011 Legislative Appropriations Request, pg 11, 2.A

- Texas Department of Agriculture Funding Programs
  - Main Street Improvements Program
  - Real Estate Development Program
  - Infrastructure Development Program
  - Texas Capital Fund Downtown Revitalization Improvements Program
- Export Assistance and Training Program
- Family Land Heritage Program
- Fiber Marketing Program
- Food Marketing Program
- Horticulture, Forestry and Produce Marketing Program
- Integrated Pest Management Program
- Livestock Marketing Program
- Organic Certification Cost Share Program
- Rural Community Promotion Program; Texas Yes!
- Specialty Crop Block Grant Program
- Texas-Israel Exchange Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture and the Texas Agricultural Experiment Station do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding level for the Department of Agriculture and the Texas AgriLife Research for 2009 was $132,922,915. The percentage allocation to dairy for Texas in 2008 was 8.2%. Therefore, the total amount allocated to dairy production for 2009 is $10,899,679.

PART II – TEXAS

Linked Deposit Program

(a) Program Description

Through this program, the Department of Agriculture can facilitate commercial lending at below market rates to qualified applicants for eligible projects, including: production of an alternative crop; and processing and marketing of agricultural crops or livestock. This is an interest buy-down program that sets the deposit interest rate but such rate may not drop below the floor rate of 1.5%.[601]

(b) WTO Consistency

By reducing interest rates charged to eligible producers on loans from private lenders, the program confers a subsidy. As the subsidy is intended to support production and reduces costs of specific eligible producers, any support provided through this program should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Texas is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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601 *Linked Deposit Program*, Agricultural Finance Programs, Texas Agricultural Finance Authority, Texas Department of Agriculture

44. UTAH

Agricultural producers in Utah benefit from subsidies and support provided by the Department of Agriculture and Food. The total funding for agriculture programs operated by the Department of Agriculture and Food are reported as follows: [602]

FY 2009 (Actual)	$27,307,700
FY 2010 (Authorized)	$26,970,100
FY 2011 (Total)	$24,162,000

The State of Utah administers the following programs:

- Agriculture Resource Development Loan Program
- Rural Rehabilitation Loan Program
- Agriculture Child Education-Ag in the Classroom Program
- Agriculture Protection Area Program
- Branding Program – Utah's Own
- Cattle Health Assurance Program
- Animal Feeding Operation (AFO) Clean Water Program
- Agriculture in the Classroom Program
- Drought Assistance Program
- Utah Cattle Health Assurance Program (UCHAP)
- Utah Egg Quality Assurance Program (UEQAP)
- Groundwater Program
- Parallel Salinity Program
- Utah Job Match program
- Wildlife Services (WS) Program
- Product of Utah Program
- Farm Credit Mediation Program
- Department of Ag Loan Programs
    - Agriculture Resource Development Loans (ARDL) Program
- Irrigation Program
    - Land Use Program
- Organic Certification Program
- State Ground Water Program

[602] *State of Utah, Budget Recommendations, FY 2011, Fiscal Year 2010 Supplements*, pg 118

PART II – UTAH

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture and Food do not provide support exclusively to dairy producers which we are able to measure. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding level for the Department of Agriculture and Food for 2009 was $27,307,700, and the percentage allocation to dairy for Utah in 2008 was 21.1%. Therefore, the total amount allocated to dairy production for 2009 is $5,761,924.

PART II – UTAH

Rural Rehabilitation Loan Program

(a) Program Description

Through this program, the Department of Agriculture and Food provides low interest loans to farmers and ranchers who could not receive conventional financing. Loans provided under this program may be used by beginning farmers and ranchers to upgrade their operations. Loans may also be provided to farmers in distress. The purpose of this program is to save agricultural operations that would be viable with more favourable financing.[603]

Total assets for this fund are $8.5 million with $7.7 million out of individual loans. The maximum term is 10 years. Interest rates vary from 5% to 6%, with no fees. Borrowers must not be eligible to receive conventional financing.[604]

(b) WTO Consistency

Loans provided under this program constitute subsidies on the basis that they are "low interest" and are made to farmers and ranchers who would not otherwise qualify for loans from a commercial lender. The loans are provided to allow the eligible farmer and rancher to upgrade their operations. Consequently, support provided through this program should be included in the U.S. AMS on the basis that it is intended to have trade and/or production distorting effects.

(c) Expenditure and Allocation

The budgetary information available from the Government of Utah is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

[603] *Utah Department of Agriculture and Food, Conservation and Resource Management, Agriculture Loans, Rural Rehabilitation Loan*

[604] *National Council of State Agricultural Finance Programs, Utah Department of Agriculture and Food, Rural Rehabilitation Loan Program*

PART II – UTAH

Land Use Program

(a) Program Description

The Division of Water Resources is charged with the responsibility of developing a State Water Plan. This plan was to coordinate and direct the activities of state and federal agencies concerned with Utah's water resources. As a part of this objective, the Division of Water Resources continually assesses the water-related land use of the state. This data includes determining cropland water use evaluating irrigated land losses and conversion to urban uses, planning for new water development, establishing irrigation for any area, and developing water budgets.[605]

(b) WTO Consistency

This program would appear to be exempt from AMS pursuant to Annexes 2.2(a) and 2.2(d) to the WTO Agreement on Agriculture, but activities related to establishing irrigation and developing water budgets would appear to be production enhancing and distorting.

(c) Expenditures and Allocation

The budgetary information available from the Government of Utah is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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605 Utah Natural Resources, Division of Water Resources, Land Use Program Description and Methods

45. VERMONT

Agricultural producers in Vermont benefit from subsidies and support provided by the Agency of Agriculture, Food and Markets. The total funding for programs operated by the Agency of Agriculture, Food and Markets are reported as follows:[606]

FY 2009 (Actual)	$15,123,437
FY 2010 (Estimated)	$15,438,456
FY 2011 (Proposed)	$15,073,628

The State of Vermont administers the following programs:

- Agricultural Credit Corporation
- Agricultural Loan Payment Guarantee Program
- Agriculture Child Education Program
- Community Loan Fund
- Conservation Reserve Enhancement Program
- Economic Development Authority Programs
    - Direct Loan Program -Subchapter 5
    - Industrial Revenue Bonds - Subchapter 4
    - Local Development Corporation Loans - Subchapter 3
    - Mortgage Insurance Program – Subchapter 2
    - Financial Access Program Vermont Job Start Program – Micro Enterprise Lending Program
    - Export Finance Programs
    - Vermont Small Business Loan Program
    - SBA 504 Financing Program
    - Vermont Agricultural Credit Corporation - VACC
- Farm Operating Loan Program
- Nonpoint Source Pollution Program
- Pesticide Monitoring Program
- Rural and Farm Family Vocational Rehabilitation Program

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

[606] *Agriculture, Food and Markets,* State of Vermont, Fiscal Year 2011 Budget Recommendations, pg 230

PART II – VERMONT

Dairy farming is by far the most important component of Vermont agriculture. Senator Leahy is arguably the principal promoter of the U.S. dairy industry, its protection and financial support. While Vermont's program suite does not earmark the dairy sector, it is clearly the principal beneficiary. The total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding level for the Agency of Agriculture, Food and Markets for 2009 was $15,123,437, and the percentage allocation to dairy for Vermont in 2008 was 72.6%. Therefore, the total amount allocated to dairy production for 2009 is $10,979,615.

PART II – VERMONT

Vermont Agricultural Credit Corporation

(a) Program Description

The Vermont Agricultural Credit Corporation assists producers whose credit needs are not fully met by conventional agricultural credit sources at reasonable rates and terms. The Corporation can provide a maximum aggregate loan size is $1,112,000 per borrower. The loans provided can be both for farm ownership and farm operation. Most loans require a guarantee from the USDA Farm Services Agency, but this guarantee is not required for smaller loans. The Corporation can also make loans for purposes that are not eligible for USDA Farm Services Agency guarantees.[607]

(b) WTO Consistency

The loans provided by the Vermont Agricultural Credit Corporation provide a benefit to producers. Based on the information available, it is evident that the loans are intended to be used to finance continued or new farm production (i.e., the loans fund both farm operations and farm ownership). Consequently, the support provided through these loans will result in trade and/or production distorting effects and, on that basis, should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Vermont is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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607 Vermont Agricultural Credit Corporation Brochure, *Vermont Economic Development Authority*

PART II – VERMONT

Agricultural Loan Payment Guarantee Program

(a) Program Description

This program, administered by the Vermont Economic Development Authority, can guarantee a maximum of 9 months of deferred principal and interest payments (to a maximum of $100,000) granted to farmers on their outstanding debt with other financial institutions. The objective of this program is to provide immediate cash flow relief to Vermont farmers.[608]

(b) WTO Consistency

This program provides a subsidy that directly benefits participating Vermont farmers and allows them to reduce their costs. Consequently, support provided through this guarantee program should be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Vermont is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

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[608] Vermont Legislature, *Agricultural Loan Payment Guarantee Program*¸ No. 7 – Sec 1 (H476)

46. VIRGINIA

Agricultural producers in Virginia benefit from subsidies and support provided by the Department of Agriculture and Consumer Services. The total funding for programs operated by the Department of Agriculture and Consumer Services are reported as follows:[609]

FY 2008	$52,598,336
FY 2009	$59,150,147
FY 2010	$57,237,263

In addition, funding for the Virginia Agriculture Council is set at $490,334 for FY 2008, FY 2009 and FY 2010.[610] The Council promotes agricultural interests in Virginia.

The State of Virginia administers the following programs:

- Agribusiness Development
- Agricultural Stewardship Program
- Agriculture Child Education
- Agriculture Education
- Agriculture Educational Programs and Resources
    - Agriculture and Natural Resources
    - Crops and Grains
    - Fruits and Vegetables
    - Health, Nutrition and Foods
    - Livestock, Poultry and Dairy
    - Housing and Farm Structures
    - Forestry, Fisheries and Wildlife
    - Home Gardening
    - Financial Management
    - Natural Resources & Environmental Management
    - Seafood and Aquaculture
    - Farm Business Management and Marketing
    - Commercial Greenhouse, Nursery and Landscape
    - Disasters Preparation and Response

609 *Department of Agriculture and Consumer Services, 2010-2012 Biennial Operating Budget*, pg B40
610 *Virginia Agriculture Council, 2010-2012 Biennial Operating Budget*, pg B43

- Agriculture Trademark Program
- Agriculture Vitality Program
- FarmLink Program
- Fruit, Vegetable, and Peanut Marketing Program
- Grain Marketing Program
- Livestock Marketing Program
- Soil and Water Conservation Programs
- Coastal Nonpoint Pollution Control Program

Many of the programs delivered by the State of Virginia are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture and Consumer Services and the Virginia Agriculture Council do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The total funding level for the Department of Agriculture and Consumer Services and the Virginia Agriculture Council for 2009 was $59,640,481, and the percentage allocation to dairy for Virginia in 2008 was 12.4%. Therefore, the total amount allocated to dairy production for 2009 is $7,395,420.

47. WASHINGTON

Agricultural producers in Washington benefit from subsidies and support provided by the Department of Agriculture. Total funding for expenditures by the Department of Agriculture in 2003 – 2005 are reported in the Biennial Budget as $96,450,000.[611]

2005-2007	$109,722,751
2007-2009	$129,938,012
2009-2011	$129,647,000

The State of Washington administers the following programs:

- Agricultural Fairs Program
- Farm to School
- Agriculture Performance and Sustainability Program
- Department of Agriculture Divisions and Programs
    - Administrative Service/Market Development
    - Commodity Inspection
    - Food Safety, Animal Health & Consumer Services
    - Pesticide Management
    - Plant Protection
- Department of Agriculture Animal Feed Program
- Animal Health Program
- Chemigation and Fertigation Program
- Custom Meat Program
- Department of Agriculture Dairy Program
- Food and Animals Division
- International Marketing Program
- Livestock Identification Program
- Organic Food Program
- Pesticides Division
- Plants and Insects Programs
    - Pest Program
    - Plant Services Program
    - Nursery Inspection
    - Plant Certification Project
    - State Noxious Weed Control Board

611 *Washington State Department of Agriculture*, Governor's Proposed Budget 2009-2011, pg 1-2

PART II – WASHINGTON

- Small Farm and Direct Marketing Program
- Washington State USDA Specialty Crop Grant

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a specific consideration for illustrative purposes – and in some cases to identify supplementary support.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers which can be measured based on available information. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The expenditures of the Department of Agriculture for 2009, $64,823,500, are determined by taking half of the number set out in the Biennium Budget. The percentage allocation to dairy for Washington in 2008 was 12.2%. Therefore, the total amount allocated to dairy production for 2009 is $7,908,467.

PART II – WASHINGTON

Department of Agriculture Dairy Program[612]

(a) Program Description

The Washington State Department of Agriculture (WSDA) Dairy Program involves:

- Licensing and Inspection of Dairy Farms and Plants
- Inspection of Milk Tankers
- IMS Survey Program
- Sampling and Testing of Dairy Products
- Investigation of Dairy related Complaints
- Testing of Pasteurizers
- Licensing and Evaluation of Dairy Technicians
- Issuing export certificates of sanitation and free sale for food products manufactured in Washington state.
- Technical Assistance on dairy related issues
- Equipment review

(b) WTO Consistency

Many of these activities would appear to be exempt from AMS pursuant to Annex 2.2 to the WTO Agreement on Agriculture. Many of these programs involve state level delivery of USDA programs.

(c) Expenditures and Allocation

The budgetary information available from the Government of Washington State is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

612 *WSDA Dairy Program*, Washington State Department of Agriculture

PART II – WEST VIRGINIA

48. WEST VIRGINIA

Agricultural producers in West Virginia benefit from subsidies and support provided by the Department of Agriculture. The expenditures by the Department of Agriculture are reported as follows:[613]

FY 2009 (Actual)	$36,073,073
FY 2010 (Budgeted)	$59,784,476
FY 2011 (Requested)	$55,547,822

The State of West Virginia administers the following programs:

- Agriculture Child Education Program
- Animal Health Program
- Crop and Livestock Insurance Products
    - Livestock Protection Programs
        - Livestock Risk Protection
        - Coverage Prices
    - USDA Risk Management Agency
        - General Policies and Provisions
            - Adjusted Gross Revenue Insurance
            - Policy
            - Coverage Enhancement Option (CEO)
        - Individual Crop Policies and Provisions
- Asian Lady Beetle Program
- Pet Registry
- Auctioneers Program
- Honeybees Program
- Development Programs
    - Business & Cooperative
    - Single Family Housing
    - Multi Family Housing
    - Community Facilities
    - Rural Utilities
    - Community Development
    - West Virginia EZ/EC
    - Property Sales

613 *Department of Agriculture Expenditures,* 2011 Executive Budget, State of West Virginia, pg 134

- Meat and Poultry Inspection Program
- Plant Industry Programs
  - Agricultural Pest Survey Programs Unit
  - Black Fly Control Program
  - Cooperative Agricultural Pest Survey Program
  - Plant Pest Regulatory Program
  - Forest Health Protection Programs Unit
  - Cooperative Forest Health Protection (CFHP) Program
  - Gypsy Moth Program
  - Pesticide Regulatory Programs Unit
  - Certification/Compliance Assistance Program
  - Compliance/Enforcement Program
  - Worker Protection Program
- Regulatory and Environmental Affairs Programs
  - Frozen Desserts and Imitation Frozen Desserts
  - Dairy Products and Imitation Dairy Products
  - Bulk Milk Trade
  - Marketing of Eggs
  - Commercial Feed
  - Fertilizer Program
  - Agricultural Liming Materials
  - Agriculture and Forest Seeds
  - Pesticides Program
  - Non-Traditional Agricultural Products
  - National Egg Regulatory Officials
- Rural Rehabilitation Fund
- Watershed Improvement Program

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not provide support exclusively to dairy producers which is measureable and in some cases does not constitute a subsidy subject to AMS. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

PART II – WEST VIRGINIA

The expenditures of the Department of Agriculture for 2009 were $36,073,073, and the percentage allocation to dairy for West Virginia in 2008 was 6.4%. Therefore, the total amount allocated to dairy production for 2009 is $2,308,677.

49. WISCONSIN

Agricultural producers in Wisconsin benefit from subsidies and support provided by the Department of Agriculture, Trade and Consumer Protection. The expenditures by the Department of Agriculture are reported as follows:[614]

FY 2009 (Adjusted Base)	$100,972,400
FY 2010 (Recommended)	$102,775,900
FY 2011 (Recommended)	$104,005,100

The State of Wisconsin administers the following programs:

- Credit Relief Outreach Program (CROP) Guarantee
- Beginning Farmer Bond (BFB)
- Farm Asset Reinvestment Management (FARM) Guarantee
- Agribusiness Guarantee
- Agricultural Development and Diversification Grant
- Agricultural Development Zone Program
- Dairy 2020 Early Planning Grant Program
- Agriculture Child Education
- Industries of the Future Project
- Rural Development Programs
    - Business and Community
        - Business and Industry Direct Loans
        - Business and Industry Guaranteed Loans
        - Community Facilities Direct Loans and Grants
        - Community Facilities Guaranteed Loans
        - Cooperative Development Technical Assistance
        - Intermediary Relending Program
        - Renewable Energy Systems and Energy Efficiency
        - Improvement Grants
        - Rural Business Opportunity Grants
        - Rural Business Enterprise Grants
        - Rural Cooperative Development Grants
        - Rural Economic Development Loans and Grants
        - Value-Added Producer Grants
    - Community Development

[614] *Wisconsin Department of Agriculture, Trade and Consumer Protection*, 2009-2011 Executive Budget, pg 33

    - Empowerment Zones and Enterprise Communities
  - Housing
    - Farm Labor Housing Loans and Grants
    - Housing Preservation Grants
    - Multi Family Housing Direct Loans
    - Multi Family Housing Guaranteed Loans
    - Repair Loans and Grants
    - Rural Housing Site Loans
    - Self Help Technical Assistance Grants
    - Single Family Housing Direct Loans
    - Single Family Housing Guaranteed Loans
  - Utilities
    - Distance Learning and Telemedicine Loans and Grants
    - Emergency Community Water Assistance Grants
    - Rural Water Circuit Rider Technical Assistance
    - Solid Waste Management Grants
    - Technical Assistance and Training Grants
    - Water and Waste Disposal Loans and Grants

Many of these programs are state level vehicles for delivering USDA funding and services. We have selected a few for specific consideration for illustrative purposes – and in some cases to identify supplementary support.

Wisconsin is a major dairy producing state where dairy represents 46.2% of farm gate receipts. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it allows us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The expenditures of the Department of Agriculture for 2009 were $100,972,400, and the percentage allocation to dairy for Wisconsin in 2008 was 46.2%. Therefore, the total amount allocated to dairy production by the Department of Agriculture for 2009 is $46,649,249.

In addition to the Department of Agriculture subsidies, Wisconsin permits tax credits up to $5,000,000 over 15 years, or $333,333 per year, in designated agricultural development zones. The tax credits are open to all agribusinesses, but are specifically intended to assist the dairy industry which is very important to Wisconsin Agriculture. Therefore, for purposes of this report we have assumed that at least 25% of the tax credits, or $83,333 per year, would be used to benefit dairy producers.

Therefore, including the value of the tax credit program, total expenditures on agricultural programs in 2009 was $101,305,733. As noted above, dairy represented 46.2% of farm gate receipts in Wisconsin in 2008. The total allocation to dairy for 2009, including the 25% share of the tax credit program, is $46,732,582.

PART II – WISCONSIN

Credit Relief Outreach Program (CROP) Guarantee

(a) Program Description

This program provides 80% guarantees on loans up to $60,000, 90% on loans less than $50,000. Loans may be used to pay for services or consumable goods needed to produce agricultural commodities. The commodity must be planted and harvested for consumption within the term of the loan. Loans may be used for livestock if the livestock is purchased, fed and sold within the term of the loan.

The maximum interest rate is prime plus 1% set on the date of the Note. The maturity date is March 31st of the following year.

Eligible applicants are Wisconsin residents actively engaged in the farm operation. The eligible farmer's debt to asset ratio must be 40% or more.[615]

(b) WTO Consistency

Based on the information available, the loan guarantees provided through this program would confer a subsidy on the recipient producers. The maximum interest rate available is expressed as prime plus 1%, which leaves open the possibility of loans at or below price. Eligible producers must be actively engaged in farming and have a debt to asset ratio of 40% or more, which raises the question of whether these applicants could obtain financing from commercial lenders at better terms.

The subsidy provided under this program must be included in the U.S. AMS. The guaranteed loan must be used for production within the term of the loan. Thus, as the program is intended to support production, it would have trade and/or production distorting effects.

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615 *Credit Relief Outreach Program, National Council of State Agricultural Finance Program*

(c) Expenditure and Allocation

The budgetary information available from the Government of Wisconsin is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

PART II – WISCONSIN

Agribusiness Guarantee

(a) Program Description

This program provides a maximum guarantee which is the lesser of 80% or $600,000 used by businesses located in a Wisconsin municipality with 50,000 or more people to create a product new to the business or to expand production of an existing product. The new product or expanded production must use a raw agricultural commodity. Applicants must demonstrate that it made a "notable effort" to purchase a substantial portion of its raw agricultural commodities from Wisconsin suppliers.[616]

(b) WTO Consistency

Based on the information available, it appears that the loan guarantee provided under this program would confer a benefit on recipients. As the loan guarantee is provided based on the use of raw agricultural commodities produced in Wisconsin, it would also indirectly subsidize agricultural production. As the intention of the program is to increase agricultural production, the subsidies must be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Wisconsin is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program.

616 *Agribusiness Guarantee, National Council of State Agricultural Finance Programs*

PART II – WISCONSIN

Agricultural Development Zone Program

(a) Program Description

This program, operated by the Department of Commerce, is intended to attract, promote, retain and encourage expansion of agricultural businesses in four regions designated as Agricultural Development Zones. Business, including agribusiness, is promoted through $5,000,000 in tax credits allocated to the zone. Unused tax credits can be carried forward for 15 years. The tax credits can be claimed over the life of the zone. Although the program is available to all agribusiness, it is intended to "assist Wisconsin in regaining its prominence in the dairy industry and in dairy processing production." [617]

(b) WTO Consistency

The tax credits provided through this program constitute a subsidy for purposes of the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture. As the purpose of the program is to provide an incentive for greater production, support provided under this program should be included in the U.S. AMS.

(c) Expenditures and Allocation

The information available does not outline annual expenditures under this program or allocate these subsidies among producers. However, assuming that the $5,000,000 is applied equally over the 15 years of the program, total tax credits provided in 2009 would be $333,333. Although the program is open to all agribusinesses operated within the Agricultural Development Zones, the intention of the program is to assist the Wisconsin dairy industry. Therefore, it would be reasonable to assume that this program provides substantial assistance to dairy producers and processors. For purposes of this study, we have assumed that at least 25% of the tax credits would be used by dairy producers and processors. In light of the importance of the dairy industry in Wisconsin, we believe that this is a reasonable assumption that likely

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[617] *Agricultural Development Zone Program*, Wisconsin Department of Commerce, Business Development

understates the importance of this program to dairy. Thus, of the $333,333 available under this program in 2009 (the program began on January 1, 2009), $83,333 would benefit the dairy industry.

PART II – WISCONSIN

Dairy 2020 Early Planning Grant Program

(a) Program Description

This program is intended to encourage and stimulate start-up, modernization and expansion of dairy farms. Proceeds from these grants may only be used to assist the applicant in the start-up, modernization or expansion of a dairy farm. Grants provided cover up to 75% of eligible project costs up to a maximum $3,000.[618] Since its inception in 1996, the program has provided more than $2,545,000 to over 925 Wisconsin dairy producers.

(b) WTO Consistency

This grant program provides a subsidy to eligible recipients. As the support is provided directly to eligible producers, and has the effect of reducing their overall costs, the value of this support must be included in the U.S. AMS.

(c) Expenditure and Allocation

The budgetary information available from the Government of Wisconsin is not sufficiently detailed to allow us to determine actual, estimated or budgeted expenditures on account of this program in FY 2009.

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[618] *Dairy 2020 Early Planning Grant Program*, Wisconsin Department of Commerce, Business Development

50. WYOMING

Agricultural producers in Wyoming benefit from subsidies and support provided by the Department of Agriculture. The expenditures by the Department of Agriculture are reported as follows:

2007-2008 Biennial Budget	$34,006,894[619]
2009-2010 Biennial Budget	$40,639,319[620]
2011-2012 Biennial Budget	$36,121,619[621]

The State of Wyoming administers the following programs:

- Agriculture Business Programs
  - Centers for Excellence in Rural America
    - Education and Leadership Development
    - Forage and Grain Promotion Program
    - Export-Import Bank Program
    - Income Diversification Program
    - Livestock Promotion Program
    - Organic/Natural Foods and Farmers Market Program
  - Rural Rehabilitation Program
    - Value-Added Food and Consumer Goods
    - Wyoming First Program
- State Loan and Investment Board
- Export-Import Bank Programs
  - Short-term Credit Program
  - Medium-term Export Credit Insurance Program
  - Loan and Guarantee Program
  - Working Capital Guarantee Program
  - City/State Partners Program
- Agriculture Child Education
- Agriculture Leadership
- Wyoming Environmental Quality Incentives Program 2004
- Forage Program
- Grazing Lands Program
- Income Diversification Program

619 *Agency Budget Summary Table, Agriculture Department*, 2007-2008 Biennium
620 Ibid.
621 Ibid.

- Livestock Program
- Organic, Natural Foods and Farmers Market Programs
- Rural Development Programs
    - Rural Business-Cooperative Programs
    - Rural Housing Programs
    - Rural Utilities Programs
    - Community Development Programs
    - Rural Empowerment Zone and Enterprise Community Program
- Value-Added Program
    - Local Marketing Programs
    - National Marketing Programs
    - International Marketing Programs
- Water Development Program

Many of these programs are state level vehicles for delivering USDA funding and services.

The programs administered by the Department of Agriculture do not appear to provide support exclusively to dairy producers. Therefore, the total value of the support attributable to dairy production is calculated on the basis of dairy's total share of state agricultural production. We recognize that this methodology will result in the amount of support allocated to dairy being overstated in some states and understated in others. However, this methodology has been adopted because it will allow us to determine the amount of support allocated to dairy producers by the state governments, on an aggregate basis.

The expenditures of the Department of Agriculture for 2009 were $20,319,659 (half of Biennial), and the percentage allocation to dairy for Wyoming in 2008 was 2.4%. Therefore the support allocated to dairy production for 2009 in Wyoming is $487,672.

51. IRRIGATION SUBSIDIES

(a) Program Description

The States and local governments provide very substantial support to agriculture in the form of low-cost water provided through irrigation systems. This support is distinct from the irrigation infrastructure and services provided by the U.S. Federal Government addressed in Part I. The Federal Government support to irrigation comes in the form of infrastructure development. Since the Reclamation Act of 1902 was introduced, the U.S. Federal Government has invested approximately $21.8 billion in the infrastructure required for the approximately 133 irrigation projects from 1902 through 1994. We have not been able to update this information but investments are ongoing.

The State Governments, through state and local authorities, provide the subsidized water distributed through these irrigation systems to users, including agricultural producers. Water is provided to these producers at prices that are generally below the prevailing price to other users (i.e., the price to agricultural producers is below the price charged to industrial or residential users).

> "While irrigation may be used to produce the most profitable crops for the area, the last units of water applied will rarely return more than $30 per acre-foot, and in most cases, much less. Industrial, commercial, domestic, and environmental restoration applications can, in most cases, pay much more."[622]

Irrigation is vitally important to U.S. agriculture.

> "Most agricultural water withdrawals occur in the arid Western States where irrigated production is concentrated. In 2000, about 85 percent of total agricultural withdrawals occurred in a 19-State area encompassing the Plains, Mountain, and Pacific regions. In

[622] Gollehon, Noel R., *Water Markets: Implications for the Rural Areas of the West,* Rural Development Perspectives, Vol 14, No. 2, at pg 57

> the Mountain region, over 90 percent of the water withdrawal is used by agriculture, almost all (96 percent) for irrigation."[623]

Irrigation has allowed the United States to develop very profitable agricultural production on arid and semi-arid land. The USDA ERS has recognized the important role that irrigation plays in U.S. agriculture,

> "Irrigated cropland is important to the U.S. farm economy, accounting for about 49 percent of total crop sales from just 16 percent of the Nation's harvested cropland in 1997 (USDA 2001)."[624]

These irrigation programs make agricultural production possible in areas where it would not otherwise be economically viable. For example, despite being located in areas not suited to grow either *cotton* or *rice*, the subsidized water made available to California producers allows them to grow significant quantities of both crops.[625] And there are substantial benefits to livestock:

> "Government-subsidized water use for one purpose alone – irrigating pastures for grazing sheep – exceeds the water used for all other purposes in California, residential and industrial. In one recent year $530 million in taxpayer dollars were spent on pumping this water to sheep ranchers when the gross revenues of the sheep ranching industry in that year were less than one-fifth of that amount, $100 million."[626]

As a further example, water for irrigation in the Columbia River Basin in the U.S. Pacific Northwest has been used to support a very profitable potato industry. Without access to this water, it is unlikely that any of this production could have occurred. In 1995, William Bean of the Columbia Basin Institute determined that irrigators paid approximately 4% of the market value of water, which translated into an annual subsidy of approximately $50 million.[627]

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623 Agricultural Resources and Environmental Indicators, 2006 Edition, Chapter 2.1, pg 25 (http://www.ers.usda.gov/publications/AREI/EI1316/Chapter2/2.1/)

624 Aillery, Marcel and Golleho, Noel, Agricultural Resources and Environmental Indicators, Chapter 2.2, pg 2

625 DiLorenzo, Thomas, *California's Enemy: The State,* Ludwig von Mises Institute, January 19, 2001

626 Ibid.

627 *Manifest Subsidy: How Congress pays industry – with federal tax dollars – to deplete and destroy the nation's natural resources,* Edward A. Chadd, Common Cause National Magazine, Fall 1995, pg 3 of 8

PART II – IRRIGATION SUBSIDIES

We were asked about our methodology. Essentially we agree with Berthelot[628] that there are several methods[629] – we tend to accept (while doubting) amounts reported by the U.S. Government to the WTO or the OECD and dancing on the head of a pin about whether the proper interest rates have been used to calculate present values of investments long since sunk. Our methodology has been more focused on the provision of goods and services to irrigators and to farmers and ranchers below market prices. We are also looking into electrical and fuel subsidies but as we have noted these are revenues forgone and we have not yet been able to track these benefits with reliable specificity. [630]

Jacques Berthelot[631] points us to additional evidence from Bruce Sundquist:

- Farmers in California's Central Valley is roughly one fifth of the state's water and pay on average slightly over 1 cent /m³, just 2% of what Los Angeles pays for its drinking water and only 10% of its replacement value[632]

- One analysis of new U.S. project in central Utah found that the water it will provide will cost close to 40 times more than irrigators will pay for it. Or they will pay about 2.5 % of cost – a 97.5% subsidy based on cost to Government – and based on a benefit to farmer and ranchers basis significantly more.

- On average the U.S. government subsidizes irrigation at $54/acre/year.[633]

There can be no other conclusion; the provision of low-cost water for irrigation confers significant support and benefits on U.S. agricultural producers.

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628 It is interesting that Berthelot in one of his own critiques of U.S. subsidies suggested that our July 2003 *"argumentation could have been more robust so that we will not consider their figures seriously"* ("The huge lies in the US notification of its agricultural trade-distorting domestic supports from 2002 to 2005", Jacques Berthelot, Solidarité, January 3, 2008) – We did however describe the basis of our estimates. We are not lawyers – our Government experience is trade negotiations and Canadian GATT liaison, Government finance and program development in the Department of Finance and trade negotiation as well as WTO and NAFTA dispute settlement

629 Berthelot explains that *"However this conclusion is provisional for two reasons: 1) we have not yet shown the undernotifications made of the PS AMSs, to which we turn now; 2) because the US should have notified almost all the NPS subsidies as PS subsidies."* Ibid.

630 Berthelot in his excellent overview notes *"Let us forget here the methods 3 and 4 and the additional method 5 which would give the highest subsidies."* We relied primarily on methods 3 and 4 – our concern is benefits to farmers – much more than cost to Government. Ibid.

631 Ibid.

632 Berthelot's calculation based on the cost benchmark was $ 7-14 billion. Ours is based on a benefit to farmers and ranchers at something less than commercial rates ("relative to the costs charged to non agricultural users") was $10-$ 33 billion and we struck a middle ground of $21.5 billion. Had we used full consumer rates our estimate would have been $37-$75 billion.

633 Sundquist, Bruce "Economics, Politics and History of Irrigation" in "The Earth's Carrying Capacity" (http://home.allnet.net/bsundquist1/ir7.hmtl#A)

(b) WTO Consistency

The provision of low-cost water to producers by state and local governments constitutes a subsidy for purposes of the WTO Agreement on Subsidies and Countervailing Measures and the WTO Agreement on Agriculture and must be included in the U.S. AMS.

The subsidy exists in the form of water for irrigation provided to producers at prices below the prevailing market price.[634] The value of the subsidy is the difference between price charged to agricultural producers and the price charged to other users (i.e., industrial and residential users). These prices are established by the state and local water boards that administer the irrigation systems.

The fact that water is provided to producers through these irrigation systems does not affect the nature of the subsidy. The water at issue is not in its natural state, but exists in irrigation systems for distribution. Thus, the water is no longer in its natural state but has been transformed into a good or service for distribution.

This interpretation of water as a good or service has been recognized by the Government of Canada and by the NAFTA Parties. The Government of Canada has noted that,

> "Water in its natural state can be equated with other natural resources, such as trees in the forest, fish in the sea, or minerals in the ground. While all of these things can be transformed into saleable commodities through harvesting or extraction, until that crucial step is taken they remain natural resources and outside the scope of the trade agreements."[635]

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[634] The basis was established in *Canada – Aircraft*, WTO WT/DS70, WT/DS71

[635] *Bulk Water Removal and International Trade Considerations*, Department of Foreign Affairs and International Trade, November 16, 1999, pg 2

PART II – IRRIGATION SUBSIDIES

The NAFTA Parties also issued a declaration on water in which they stated that,

> "Unless water, in any form, has entered into commerce and become a good or product, it is not covered by the provisions of any trade agreement, including the NAFTA. And nothing in the NAFTA would oblige any NAFTA Party to either exploit its water for commercial use, or to begin exporting water in any form. Water in its natural state in lakes, rivers, reservoirs, aquifers, waterbasins and the like is not a good or product, is not traded, and therefore is not and never has been subject to the terms of any trade agreement."[636]

Thus, unless water has been drawn, extracted or harvested, it remains in its natural state and is not subject to any trade agreement. Conversely, water that has been drawn, extracted or harvested has been transformed into a good or service and is subject to trade disciplines. On this basis, the water flowing in U.S. irrigation systems is a good or service subject to the trade agreements. Thus, the provision of this water at prices below the prevailing market price confers a subsidy on recipients.

The subsidy provided through below-market priced water must be included in the U.S. AMS. The water provided through these irrigation systems not only reduces costs to individual producers, but permits agriculture to exist in areas wholly unsuited to agriculture and to participate more than proportionately in the market. Three times as much when irrigated land represents 16% of harvested cropland and accounts for 49% of the farm-gate receipts for crops. Arguably without the water for irrigation, there would be no or much more marginal production. Thus, the subsidy provided to producers in the form of water at below-market prices has trade and/or production distorting effects, as well as cost reduction effects, and must be included in the U.S. AMS.

(c) Expenditures

It is difficult to determine the actual value of the irrigation subsidy provided by U.S. state and local governments to agriculture producers. There are approximately 133 irrigation projects across 11 Western States, these states being Arizona, California, Colorado, Idaho, Montana,

636 Statement by the Governments of Canada, Mexico and the United States

Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Based on the USDA Census of Agriculture, the 11 Western States had irrigated the following acreage of land:[637]

State	Irrigated Land (Acres)	% Share of 11 State Total
Arizona	876,158	3.5%
California	8,016,159	32.0%
Colorado	2,867,957	11.5%
Idaho	3,299,889	13.5%
Montana	2,013,167	8.1%
Nevada	691,030	2.8%
New Mexico	830,048	3.3%
Oregon	1,845,194	7.4%
Utah	1,134,144	4.7%
Washington	1,735,917	7.0%
Wyoming	1,550,723	6.2%
Total	**24,860,386**	**100.0%**

US EPA Groundwater FAQ

We note that there are other states which grow significant volumes of sugar beets which are very dependent on irrigation. Irrigation is not limited to these states – they are the principal but not the only beneficiaries.

The water flowing in these irrigation projects is distributed through many more water boards, each of which establish their own prices.

In 2003, GCS prepared a report for the Dairy Farmers of Canada that reviewed U.S. irrigation subsidies.[638] In that report, GCS estimated the total value of subsidies to U.S. agricultural producers through below-market priced water at between $10,000,000,000 and $33,000,000,000. Taking the median point in the range defined by these estimates, the total value of irrigation subsidies in 2003 was $21,500,000,000. We believe that this has increased by about 12% by 2009 but we have not been able to re-do the entire analysis in the limited time available.

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637 USDA 2007 Census of Agriculture Report, Table 10 Irrigation: 2007 and 2002

638 *WTO Consistency of U.S. and New Zealand Agricultural Practices,* Grey, Clark, Shih and Associates, Limited, July 15, 2003, pp 42 - 60

(d) Allocation to Dairy

Support provided through the irrigation programs is not provided exclusively to support U.S. dairy producers. Therefore, dairy's share of these subsidies is determined on the basis of dairy's share of the total value of the 11 Western States agricultural production. The following table represents the 2008 state dairy production share of total state agricultural production, state share of the irrigation subsidy, and the state dairy share of the irrigation subsidy for each of the 11 Western States:

State	State Share of Dairy Production*		Share of Irrigation Subsidy	Dairy Share of Irrigation Subsidy
Arizona	22.0%		$752,500,000	$165,550,000
California	19.1%		$6,880,000,000	$1,314,080,000
Colorado	8.2%		$2,472,500,000	$202,745,000
Idaho	32.7%		$2,902,500,000	$949,117,500
Montana	2.0%		$1,741,500,000	$34,830,000
Nevada	16.3%		$602,000,000	$98,126,000
New Mexico	43.7%		$709,500,000	$310,051,500
Oregon	9.3%		$1,591,000,000	$147,963,000
Utah	21.1%		$1,010,500,000	$213,215,500
Washington	12.2%		$1,505,000,000	183,610,000
Wyoming	2.4%		$1,333,800,000	$31,992,000
		Total	**$21,500,800,000**	**$3,651,280,500**

* The State Share of Dairy Production is the proportion of the total individual state dairy receipts by the total U.S. dairy farm receipts.

Therefore, dairy producers should be allocated the respective state share of dairy production of the total estimated value of irrigation subsidies provided by U.S. state and local governments. Thus, the total estimated amount of these irrigation subsidies allocated to dairy producers would be $3,651,280,500.