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THE FALLOUTS OF BAILOUTS

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INTRODUCTION

Since the mid 1930s, the United States has pursued a policy of trade liberalization and since World War II, the twin aims of this policy have been to promote economic growth and to serve as a bulwark of peace—an integral part of our foreign policy. Although it is not perfect, trade liberalization has been relatively successful on both fronts and accordingly, the continuity in policy has been supported by every president—Republican or Democrat—since Herbert Hoover. It has also received bipartisan support in Congress. Yet, in recent years, the consensus has broken down and as a result, American farmers and ranchers are facing an increasingly uncertain trade environment.

Promising to reverse the tide of globalization and trade liberalization, during Donald Trump's transition into office, the incoming president made a number of high-profile appointments that raised the eyebrows of trade watchers, including Robert Lighthizer to run the Office of the United States Trade Representative (USTR), Wilbur Ross to run the U.S. Department of Commerce (Commerce) and Peter Navarro to serve as Assistant to the President and Director of the newly created Office of Trade and Manufacturing Policy.[1] Such appointments were unsurprisingly controversial, as all three men are known as longtime critics of the bipartisan trade consensus.[2]

Upon assuming office, President Trump quickly began to make good on his campaign promise to alter the trajectory of U.S. trade policy. For example, one of his first official acts was to withdraw the United States from the Trans-Pacific Partnership (TPP), a promising trade pact with 11 other Pacific Rim nations. The TPP was negotiated by the outgoing Obama administration and was the central plank of a renewed focus on improving economic and geopolitical relations in Asia. Mostly, the TPP was viewed as a tool to pressure China into raising its commercial standards and to bolster U.S. leadership in the region.[3] It was also the first trade pact the United States had negotiated and signed and then failed to ratify.

In 2017—again at the behest of the president—the Commerce Department launched an investigation into whether steel and aluminum imports should be considered threats to national security under Section 232 of the Trade Expansion Act of 1962.[4] Likewise, in August 2017, the USTR began an investigation into whether China's trade policies and practices were burdening American exporters under Section 301

1. Daniel Ikenson, "Lighthizer Completes Trump's Protectionist Triumvirate," Cato Institute, Jan. 3, 2017. https://www.cato.org/blog/lighthizer-completes-trumps-protectionist-triumvirate.

2. Ibid.

3. Pankaj Ghemawatt, "If Trump Abandons the TPP, China Will Be the Biggest Winner," *Harvard Business Review*, Dec. 12, 2016. https://hbr.org/2016/12/if-trump-abandons-the-tpp-china-will-be-the-biggest-winner.

4. David Lawder, "U.S. launches national security probe into aluminum imports," *Reuters*, April 26, 2017. https://www.reuters.com/article/us-usa-trade-aluminum/u-s-launches-national-security-probe-into-aluminum-imports-idUSKBN17T044.

of the Trade Act of 1974.[5] Both the Commerce Section 232 reports and the USTR Section 301 reports came back in the affirmative.[6]

Such findings made the administration largely free to fashion remedies to restrict imports and indeed, it levied a 25 percent tariff on all imported steel and a 10 percent tariff on all imported aluminum in order to combat the alleged national security threats.[7] It also levied tariffs on a number of products imported from China to pressure Beijing into changing its state-directed protectionist policies that burden American exporters.[8]

In each circumstance, the countries affected by the tariffs and other trade restrictions retaliated against American exports, including a large number of agricultural products. In the case of China, once it retaliated, the United States further escalated the tit-for-tat with a new round of tariffs—setting the stage for the currently ongoing trade war between the world's two most powerful economies.

As a result of heavy losses related to the tariffs, during the first quarter of 2019, personal income for U.S. farmers fell by the largest percentage since 2016.[9] And although the Trump administration dusted off a Great Depression-era program within the United States Department of Agriculture (USDA) to provide support to those producers caught up in the crossfire, the administration's subsequent insistence on renegotiating the North American Free Trade Agreement (NAFTA) has only exacerbated uncertainty about the future of American agriculture.[10] This is particularly true, as the new pact, the United States-Mexico-Canada Agreement (USMCA), currently faces an uncertain future in Congress.

The USTR has also notified Congress that it intends to begin negotiating a free trade agreement (FTA) with Japan.[11] And indeed, accessing the Japanese market is a top priority for American agricultural exporters.[12] However, since the rest of the TPP members already moved forward with their agreement, American farmers and ranchers now face higher tariff burdens than their competitors in the lucrative Japanese market.[13] In fact, the U.S. Ambassador to Japan, William Hagerty, recently complained about the declining market share for American agricultural exports in Japan.[14]

Accordingly, this study explains the current status of trade conflicts and how they are burdening American agriculture, including by documenting the harm done to specific industries. Likewise, it details the administration's misguided attempts to bail out those industries affected by ongoing trade frictions and finally it makes policy recommendations that will truly expand foreign market access for farmers and ranchers.

CURRENT TRADE CONFLICTS AND INDUSTRIES HARMED

American farmers and ranchers have spent decades establishing themselves as steady and reliable trading partners. In 2017, the last year before the trade wars began, about 20 percent of farm income was derived from agricultural exports.[15] Yet today, the agricultural community is facing an uncertain future as trade barriers have proliferated due to misguided policies from the Trump administration.

Canada—After the administration levied heavy "national security" tariffs on steel and aluminum imports from every

5. Office of the United States Trade Representative, "USTR Announces Initiation of Section 301 Investigation of China," Press Release, Aug. 18, 2017. https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/august/ustr-announces-initiation-section.

6. See, e.g., Bureau of Industry and Security, "The Effect of Imports of Steel on the National Security, An Investigation Conducted under Section 232 of the Trade Expansion Act of 1962, as Amended," U.S. Dept. of Commerce, Jan. 11, 2018. https://www.commerce.gov/sites/default/files/the_effect_of_imports_of_steel_on_the_national_security_-_with_redactions_-_20180111.pdf; Bureau of Industry and Security, "The Effect of Imports of Aluminum on the National Security, An Investigation Conducted under Section 232 of the Trade Expansion Act of 1962, as Amended," U.S. Dept. of Commerce, Jan. 17, 2018. https://www.commerce.gov/sites/default/files/the_effect_of_imports_of_aluminum_on_the_national_security_-_with_redactions_-_20180117.pdf; Office of the United States Trade Representative, "Findings of the Investigation into China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974," Executive Office of the President, March 22, 2018. https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF.

7. Ana Swanson, "Trump to Impose Sweeping Steel and Aluminum Tariffs," *The New York Times*, March 1, 2018. https://www.nytimes.com/2018/03/01/business/trump-tariffs.html.

8. Mark Landler and Jim Tankersley, "Trump Hits China With Stiff Trade Measures," *The New York Times*, March 22, 2018. https://www.nytimes.com/2018/03/22/us/politics/trump-will-hit-china-with-trade-measures-as-white-house-exempts-allies-from-tariffs.html.

9. Mike Dorning and Katia Dmitrieva, "U.S. Farmer Income Drops Most Since 2016 as Trade War Losses Mount," *Bloomberg*, April 29, 2019. https://www.bloomberg.com/news/articles/2019-04-29/farmer-income-drops-most-since-2016-amid-trump-trade-war-pain.

10. U.S. Dept. of Agriculture, "USDA Announces Details of Assistance for Farmers Impacted by Unjustified Retaliation," Press Release, Aug. 27, 2018. https://www.usda.gov/media/press-releases/2018/08/27/usda-announces-details-assistance-farmers-impacted-unjustified.

11. Office of the United States Trade Representative, "Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the European Union and the United Kingdom," Press Release, Oct. 16, 2018. https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/october/trump-administration-announces.

12. Multi-Industry Coalition, "Coalition Letter to Ambassador Lighthizer Urging Swift Action on U.S.-Japan Trade Agreement," NASDA, April 22, 2019. https://www.nasda.org/letters-comments-testimony/coalition-letter-to-ambassador-lighthizer-urging-swift-action-on-u-s-japan-trade-agreement.

13. James Polti, "US farmers being cut out of Japan after TPP withdrawal," *The Financial Times*, March 18, 2019. https://www.ft.com/content/07d14730-4831-11e9-bbc9-6917dce3dc62.

14. Takeshi Kumon, "US seeks level playing field in Japan trade talks, ambassador says," *Nikkei Asian Review*, April 18, 2019. https://asia.nikkei.com/Editor-s-Picks/Interview/US-seeks-level-playing-field-in-Japan-trade-talks-ambassador-says.

15. Foreign Agriculture Service, "U.S. Farm Exports Hit Third-Highest Level on Record," U.S. Dept. of Agriculture, Nov. 17, 2017. https://www.fas.usda.gov/newsroom/us-farm-exports-hit-third-highest-level-record.

trading partner pursuant to Section 232 of the Trade Expansion Act of 1962, a number of countries retaliated against certain American exports, including agricultural products. Canada, for example, is the largest export market for American agricultural and food products. However, after the tariffs, Canada applied 10 percent tariffs to hundreds of American products, including more than 20 agricultural and food products (in addition to 25 percent tariffs on a number of American steel products).[16] On the list of targeted items are coffee, condiments, ketchup, waters (including mineral and flavored waters), orange juice, and certain beef and poultry products. Previously, under NAFTA, all of these had been traded duty-free.

Mexico—Totaling more than $18.6 billion in 2017, Mexico is the third-largest market for American agricultural exports.[17] In response to the Trump administration's steel and aluminum tariffs, Mexico retaliated with tariffs of its own that ranged from 10 to 25 percent on a number of American products, including on $2.6 billion worth of U.S. agricultural exports.[18] Targeted products include: pork products, apples and cheese, among others.[19] As in the case with Canada, these same products all traded duty-free under NAFTA.

European Union—The European Union (EU) is the fifth largest market for American agricultural products. In 2017, for example, we sent more than $11.5 billion worth to various nations in the EU. After the steel and aluminum tariffs were implemented by the Trump administration, however, the EU responded with targeted 25 percent tariffs on a number of products.[20] These applied to $3.2 billion worth of American exports.[21] On the list were vegetables, fruit juice, peanut butter and American whiskey and bourbon.[22] And, although the United States does not have a comprehensive free trade agreement with the European Union like it does with Canada and Mexico, prior to the retaliation, American bourbon and whiskey were traded duty-free, while peanut butter tariffs were only 13 percent (they are now at 38 percent). Juice tariffs jumped from a range of 14-34 percent to 39-59 percent.[23] In the case of American bourbon and whiskey in particular, the tariffs stunted a once-promising market. Prior to the tariffs, Europe made up 43 and 67 percent (respectively) of the share of U.S. exports of the products in 2017.[24] In the post-tariff fall-out, American whiskey exports to the EU have all but dried up.[25]

Turkey—Turkey is a major supplier of steel and aluminum to the United States, so it is no surprise that it retaliated against a number of American exports, including certain agricultural products. Its retaliatory tariffs ranged from 5 percent to 40 percent and hit American nuts, rice, tobacco and whiskey, among other products.[26] Because the United States does not have a free trade agreement with Turkey, a number of American products already faced high barriers in the country. Tobacco, for instance, carried a 25 percent tariff before Turkey retaliated; now that tariff on American tobacco farmers has doubled.[27] In other words, the retaliatory tariffs further increase the already-high barriers certain American farmers and ranchers face when trying to reach the Turkish market.

India—India was hit with Section 232 tariffs on steel and aluminum, but unlike other countries that retaliated immediately, New Delhi initially held off and tried to negotiate with the Trump administration. However, in June 2019 when the administration withdrew India's preferential trade status under the Generalized System of Preferences, a program aimed at jumpstarting trade with poor and developing countries, India decided to move forward with retaliation against 28 American exports.[28] The new duties will hit approximately $241 million worth of products.[29] Although the exact contours are being worked out, major American products now facing higher duties, ranging as high as 70 percent, include major agricultural exports like almonds, apples and walnuts.[30] India is a huge destination for a number of American agricultural products. For example, 54 percent of all shelled

16. "Countermeasures in Response to Unjustified Tariffs on Canadian Steel and Aluminum Products," Canadian Department of Finance, June 29, 2018. https://www.fin.gc.ca/access/tt-it/cacsap-cmpcaa-1-eng.asp.

17. "U.S. Farm Exports Hit Third-Highest Level on Record." https://www.fas.usda.gov/newsroom/us-farm-exports-hit-third-highest-level-record.

18. Foreign Agriculture Service, "Mexico Announces Retaliatory Tariffs," U.S. Dept. of Agriculture, June 6, 2018. https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Mexico%20Announces%20Retaliatory%20Tariffs_Mexico_Mexico_6-6-2018.pdf.

19. Ibid.

20. Foreign Agriculture Service, "EU Imposes Additional Tariffs on U.S. Products," U.S. Dept. of Agriculture, June 21, 2018. https://gain.fas.usda.gov/Recent%20GAIN%20Publications/EU%20Imposes%20Additional%20Tariffs%20on%20U.S.%20Products_Brussels%20USEU_EU-28_6-21-2018.pdf.

21. Ibid., p. 2.

22. Ibid.

23. Jenny Hopkinson, *Profiles and Effects of Retaliatory Tariffs on U.S. Agricultural Exports, Congressional Research Service*, Dec. 31, 2018, p. 10. https://crsreports.congress.gov/product/pdf/R/R45448.

24. Ibid.

25. Jeanne Whalen, "Whiskey sour: U.S. craft distillers say Trump trade war with Europe is killing export plans," The Washington Post, Jan. 2, 2019. https://www.washingtonpost.com/business/economy/whiskey-sour-us-craft-distillers-say-trade-war-with-europe-is-killing-exports/2019/01/02/4c8a7b64-054f-11e9-b5df-5d3874f1ac36_story.html?utm_term=.2bd5ca7b74c7.

26. Foreign Agriculture Service, "Turkey Introduces New Additional Levy on U.S. Products," U.S. Dept. of Agriculture, June 28, 2018. https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Turkey%20Introduces%20New%20Additional%20Levy%20on%20U.S.%20Products_Ankara_Turkey_6-28-2018.pdf.

27. Hopkinson, p. 11. https://crsreports.congress.gov/product/pdf/R/R45448.

28. Taylor Telford, "India slaps back at U.S. with tariffs, lobbing small but strategic strike ahead of G-20 summit," The Washington Post, June 17, 2019. https://www.washingtonpost.com/business/2019/06/17/india-slaps-back-us-with-tariffs-lobbing-small-strategic-strike-ahead-g-summit/?noredirect=on&utm_term=.0dc702af03a7

29. Ibid.

30. Ibid.

almonds exported from the United States are sent there.[31]

China—Unlike other retaliating countries, China is subject to two sets of tariffs: the Section 232 tariffs on steel and aluminum as well as Section 301 tariffs ostensibly imposed to combat alleged intellectual property abuse, forced technology transfer, cyber espionage and other complaints.

In fiscal year 2017, American farmers and ranchers sent approximately $22 billion worth of agricultural products to China, making it the largest agricultural export market for the United States.[32] Beijing's retaliatory tariffs range from 5-25 percent and apply to more than 800 agricultural and food products; essentially every such product imported into China from the United States.[33]

In addition to being the largest overall export market for American agriculture, specific industries are extremely dependent upon exports to China and have borne the brunt of the trade tensions between Washington and Beijing. For instance, 57 percent of all soybean exports from the United States ended up in China in 2017.[34] Tariffs were 3 percent on American soy, but now the tariff rate is 28 percent.[35] As a direct result, soy exports to China fell by 74 percent in 2018—from about $12 billion to $3.4 billion.[36]

Meanwhile, 81 percent of grain sorghum exports were sent to China in 2017.[37] Tariffs on these products have jumped from 2 to 27 percent.[38] Likewise, 64 percent of frozen Pacific salmon exports were sent to China in 2017, but now face tariffs of 32 percent—up from 7 percent before the retaliation.[39]

In February 2019, USDA economists estimated that agricultural exports to China will fall to $9 billion in fiscal year 2019, down from $21.8 billion in fiscal year 2017.[40] The agency also dryly noted that this would be the "lowest since 2007, as trade tensions continue to limit U.S. export opportunities for many products, most notably soybeans."[41] Given the recent ratcheting up of tensions, it is likely that the USDA's projections are still too high. For example, a recent report indicated that China will stockpile seven million tons of American soybeans purchased during the lull in tensions.[42] In other words, it appears that Beijing is gearing up for a long, intractable trade battle that will dramatically decrease their purchase of American agricultural products.

It should be noted that in May 2019, the United States lifted the steel and aluminum tariffs on Canada and Mexico. In exchange, those nations reacted in kind.[43]

TRADE AID BAILOUT

In part due to our current trade conflicts, farm income has dropped about 50 percent since 2013.[44] In response, in July 2018, the Trump administration devised a bailout program through the USDA.[45] The initial $12 billion package is broken down into the following three programs under authority granted by Section 5 of the Commodity Credit Corporation Charter Act (CCC).[46]

Market Facilitation Program

First, under the new Market Facilitation Program (MFP), the initial plan provided approximately $10 billion worth of direct financial assistance to those producers hurt by trade retaliation, including those in corn, cotton, sorghum, soybeans, wheat, dairy, hogs, cherries and almonds.[47] Administered by the Farm Service Agency within the USDA, the MFP is the largest component of the bailout package.

To date, the program has made two separate payments to farmers and ranchers. As of February 2019, $6.4 billion in

31. Hopkinson, p. 12. https://crsreports.congress.gov/product/pdf/R/R45448.

32. "U.S. Farm Exports Hit Third-Highest Level on Record." https://www.fas.usda.gov/newsroom/us-farm-exports-hit-third-highest-level-record.

33. Ibid, p. 5.

34. Hopkinson, p. 6. https://crsreports.congress.gov/product/pdf/R/R45448.

35. Ibid.

36. Yun Li, "China makes next move in trade war, reportedly halting US soy purchases," *CNBC*, May 30, 2019. https://www.cnbc.com/2019/05/30/china-makes-next-move-in-trade-war-reportedly-halting-us-soy-purchases.html.

37. Hopkinson, p. 6. https://crsreports.congress.gov/product/pdf/R/R45448.

38. Ibid.

39. Ibid.

40. Economic Research Service, "Outlook for U.S. Agricultural Trade," U.S. Dept. of Agriculture, March 13, 2019. https://www.ers.usda.gov/topics/international-markets-us-trade/us-agricultural-trade/outlook-for-us-agricultural-trade.

41. Ibid.

42. Hallie Gu and Naveen Thukral, "Pile drive - China expected to divert outstanding U.S. soybean cargoes into reserves," Reuters, June 4, 2019. https://www.reuters.com/article/us-usa-trade-china-soybeans-exclusive/exclusive-pile-drive-china-expected-to-divert-outstanding-u-s-soybean-cargoes-into-reserves-idUSKCN1T50VO.

43. Sylvan Lane, "Canada, Mexico lift tariffs on US Goods after Trump scraps steel, aluminum levies," *The Hill*, May 20, 2019. https://thehill.com/policy/finance/444581-canada-mexico-lift-tariffs-on-us-goods-after-trump-scraps-steel-aluminum.

44. Economic Research Service, "Highlights from the March 2019 Farm Income Forecast," U.S. Dept. of Agriculture, March 7, 2019. https://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/highlights-from-the-farm-income-forecast.

45. U.S. Dept. of Agriculture, "USDA Assists Farmers Impacted by Unjustified Retaliation," Press Release, July 24, 2018. https://www.usda.gov/media/press-releases/2018/07/24/usda-assists-farmers-impacted-unjustified-retaliation.

46. 15 U.S.C. § 714c.

47. U.S. Dept. of Agriculture, "USDA Launches Second Round of Trade Mitigation Payments," Press Release, Dec. 17, 2018. https://www.usda.gov/media/press-releases/2018/12/17/usda-launches-second-round-trade-mitigation-paymentshttps://www.usda.gov/media/press-releases/2018/12/17/usda-launches-second-round-trade-mitigation-payments.

MFP payments were distributed.[48] These payments are based upon a producer's "actual level of production of eligible commodities in 2018."[49] Per-unit prices for the MFP were based on "direct trade damage," as established by calculations from the USDA's chief economist.[50]

As the table below shows,[51] approximately 75 percent of the nearly $10 billion allocated for the initial MFP program will go to soybean producers.

CHART 1: MFP PAYMENTS BY COMMODITY

Commodity	First and Second Payment Rate	Est. Total Payment** (in $1,000s)
Almonds (shelled)	$0.03 / lb.	$63,300
Cotton	$0.06 / lb.	$553,800
Corn	$0.01 / bu.	$192,000
Dairy (milk)	$0.12 / cwt.	$254,800
Pork (hogs)	$8.00 / head	$580,600
Soybeans	$1.65 / bu.	$7,259,400
Sorghum	$0.86 / bu.	$313,600
Sweet Cherries (fresh)	$0.16 / lb.	$111,500
Wheat	$0.14 / bu.	$238,400
Total		$9,567,400

Source: https://www.usda.gov/media/press-releases/2018/12/17/usda-launches-second-round-trade-mitigation-payments.

As currently structured, producers of these items can receive MFP payments as long as they have an ownership stake in the product, are "actively engaged" in farming and have an adjusted gross income (AGI) of less than $900,000 per year.[52] MFP direct payments are capped at $125,000 per recipient, either natural person or a legal entity, "but the cap works separately between crops and livestock."[53] In other words, the same person or legal entity could receive up to $125,000 in payments for soy and another $125,000 for hogs.

Food Purchase and Distribution Program

In addition to the MFP, the Trump administration's trade mitigation program directs the USDA's Agricultural Marketing Service to directly purchase certain commodities and distribute them through nutrition programs.[54] As a result, the USDA intended to purchase the following amounts of certain agricultural products affected by trade retaliation established by the table below—totaling $1.2 billion.[55]

CHART 2: FOOD PURCHASE TARGETS BY COMMODITY

Commodity	Target Amount (in $1,000s)
Apples	$93,400
Apricots	$200
Beef	$14,800
Blueberries	$1,700
Cranberries	$32,800
Dairy	$84,900
Figs	$15
Grapefruit	$700
Grapes	$48,200
Hazelnuts	$2,100
Kidney Beans	$14,200
Lemons/Limes	$3,400
Lentils	$1,800
Macadamia	$7,700
Navy Beans	$18,000
Oranges (Fresh)	$55,600
Orange Juice	$24,000
Peanut Butter	$12,300
Pears	$1,400
Peas	$11,800
Pecans	$16,000
Pistachios	$85,200
Plums/Prunes	$18,700
Pork	$558,800
Potatoes	$44,500
Rice	$48,100
Strawberries	$1,500

48. Ryan McCrimmon, "Trade-Relief Payments to Farmers Hit $6.4B Ahead of Deadline," *Politico Pro Agriculture*, Feb. 7, 2019.

49. Randy Schnepf et al., *Farm Policy: USDA's Trade Aid Package, Congressional Research Service*, Feb. 8, 2019. https://fas.org/sgp/crs/misc/R45310.pdf.

50. Office of the Chief Economist, "Trade Damage Estimation for the Market Facilitation Program and Food Purchase Distribution Program," U.S. Dept. of Agriculture, Sept. 13, 2018. https://www.usda.gov/oce/trade/USDA_Trade_Methodology_Report.pdf.

51. "USDA Launches Second Round of Trade Mitigation Payments." https://www.usda.gov/media/press-releases/2018/12/17/usda-launches-second-round-trade-mitigation-payments.

52. Randy Schnepf et al., p. 5. https://fas.org/sgp/crs/misc/R45310.pdf.

53. Steven Johnson, "Soybean Harvest Strategy for Securing MFP Payment," Iowa State University, Sept. 17, 2018. https://www.extension.iastate.edu/agdm/articles/johnson/JohOct18.html.

54. U.S. Dept. of Agriculture "USDA Launches Trade Mitigation Programs," Press Release, Sept. 4, 2018. https://www.usda.gov/media/press-releases/2018/09/04/usda-launches-trade-mitigation-programs.

55. Ibid. Note: As in the case of the per-unit prices established under the MFP, the USDA's chief economist determines the targeted amounts of purchase for each product under the Food Purchase and Distribution Program.

Sweet Corn	$2,400
Walnuts	$34,600
Total	**$1,238,800**

Source: https://www.usda.gov/media/press-releases/2018/09/04/usda-launches-trade-mitigation-programs.

As the table indicates, the amount of pork is by far the largest commodity purchased under this program, and these products are often used to provide assistance to food banks, school lunch programs and programs on American Indian reservations.[56]

Agricultural Trade Promotion Program

The final component of the initial trade mitigation program is a major boost in funding for the Agricultural Trade Promotion Program, which is typically used for "consumer advertising, public relations, point-of-sale demonstrations, participation in trade fairs and exhibits, market research, and technical assistance." [57] The USDA currently spends about $230 million annually for the Trade Promotion Program and this supplemental amount essentially doubles its budget for this year.[58] As of January 2019, all of the money had already been spent for the year.[59] Coming in at $200 million, it is by far the smallest component of the Trump administration's plan.

Rising Tensions: Second Bailout

In May 2019, as tensions between the United States and China continued, a second bailout package, which will total $16 billion, was announced.[60]

The United States increased a tranche of tariffs on imports from China from 10 percent to 25 percent—and the latter amount now applies to $250 billion worth of Chinese imports.[61] In response, China retaliated and will again stop purchasing soybeans from American producers.[62] The Trump administration is currently debating whether to impose tariffs on an additional $300 billion worth of imports from China, which would subject literally all imports to higher duties.

As a result of this latest round of Chinese tariffs, the Trump administration announced a second bailout program totaling $16 billion—up from $12 billion for the 2018 package. Like its predecessor, the second program will funnel money through the CCC into three distinct buckets: $14.5 billion for direct payments through the Market Facilitation Program; $1.4 billion for the Food Purchase and Distribution Program; and $100 million more for the Agricultural Trade Promotion Program.[63] To date, the precise details of the second bailout package are being worked out, including prices paid for direct support.

THE FALLOUT OF BAILOUTS

Taxpayer Costs

As the trade aid packages are authorized under the CCC—a New Deal-era program that "exists solely to finance authorized programs that support U.S. agriculture,"[64] they are "mandatory spending programs and therefore do not require annual discretionary appropriations in order to operate."[65] In order to finance the programs, the CCC "borrows from the U.S. Treasury [...] consistent with its permanent, indefinite authority to borrow up to $30 billion. Congress replenishes the CCC borrowing authority by appropriating funding to cover CCC's net realized losses."[66] All of this is to say that these subsidies are being funded directly by taxpayers each year, with hardly any renegotiation or oversight, as the financing is not reevaluated annually the same way other budgetary spending is. As a result, the initial program was a $12 billion hit to taxpayers and the second package is $16 billion—a total of $28 billion funded directly by taxpayers since 2018 alone. Further, if the dispute with China drags on as many trade watchers suspect it will, the bailout program will easily exhaust the CCC's $30 billion authority and Congress would need to extend the borrowing cap even further.

To make matters worse for taxpayers, the trade bailout programs are *in addition to* the most recent farm bill, the Agriculture Improvement Act of 2018, which the Congressional Budget Office estimates will cost about $900 billion over the

56. Randy Alison Aussenberg, *Domestic Food Assistance: Summary of Programs*, Congressional Research Service, March 22, 2018. https://fas.org/sgp/crs/misc/R42353.pdf.

57. Randy Schnepf et al., p. 9. https://fas.org/sgp/crs/misc/R45310.pdf.

58. *USDA Export Market Development and Export Credit Programs: Selected Issues*, Congressional Research Service, Oct. 17, 2017. https://www.everycrsreport.com/files/20171017_R44985_7135535c98011bdc4c87403ed045ac68354fe0f8.pdf.

59. U.S. Dept. of Agriculture, "USDA Awards Agricultural Trade Promotion Program Funding," Press Release, Jan. 31, 2019. https://www.usda.gov/media/press-releases/2019/01/31/usda-awards-agricultural-trade-promotion-program-funding.

60. Catherine Boudreau, "Why Trump's new $16B farmer bailout could hurt agriculture," *Politico*, May 23, 2019. https://www.politico.com/story/2019/05/23/trump-farmer-bailout-trade-usda-1459840.

61. Matt Peterson, "The Trade War Is Just Beginning," *The Atlantic*, May 20, 2019. https://www.theatlantic.com/politics/archive/2019/05/whats-next-us-china-trade-war/589852.

62. Li. https://www.cnbc.com/2019/05/30/china-makes-next-move-in-trade-war-reportedly-halting-us-soy-purchases.html.

63. Ana Swanson, "Trump Gives Farmers $16 Billion in Aid Amid Prolonged China Trade War," *The New York Times*, May 23, 2019. https://www.nytimes.com/2019/05/23/us/politics/farm-aid-package.html.

64. Randy Schnepf, *Farm Policy: USDA's Trade Aid Package*, Congressional Research Service, Feb. 8, 2019, p. 3. https://fas.org/sgp/crs/misc/R45310.pdf.

65. Ibid.

66. Ibid.

next ten years.[67] With Washington swimming in red ink—$22 trillion in debt and massive trillion-plus dollar deficits during a growing economy—it is time for policymakers to responsibly address the fiscal imbalance, rather than bail out an industry that was needlessly harmed by the administration's largely unnecessary and ill-advised trade wars.

Environmental Damage

Agriculture subsidies do not just hurt taxpayers; they are also devastating for the environment. Subsidizing agriculture as heavily as the United States does creates incentives for overproduction. As scholars for the American Enterprise Institute note: "[T]he federal crop insurance program creates incentives for moral hazard behaviors that expand crop production on highly erodible land and affect the allocation of land between alternative crops."[68] In general, overproduction leads agriculture producers to use marginal farmland for cultivation, including highly sensitive areas like wetlands, and expanded use of environmentally damaging fertilizers and pesticides. In fact, a study conducted by Taxpayers for Common Sense recently noted that our farm subsidies, "have led to more soil erosion, plowing up native grasslands and draining wetlands, water pollution and unnecessary costs for downstream users."[69]

Moreover, citing research done by the Environmental Working Group, the study also states that: "The majority of price supports, crop insurance subsidies, income guarantee subsidies, and other disaster and marketing loan payments are handed out to producers of big five crops—corn, soybeans, wheat, cotton and rice."[70] It further acknowledges that "roughly two-thirds of all fertilizer nutrients" were spread on corn, cotton, soybeans and wheat,[71] all of which have been targets for foreign retaliation from the president's trade wars.

Because MFP payments—the bulk of the bailout package—are based on levels of production, the longer the trade wars drag out and the longer the payments are in place, the further incentive farmers will have to overproduce crops. In this way, the president's bailout program doubles down on the very type of subsidies that will damage the environment, including heavy damage to both water and soil quality.

Violation of WTO Rules

While the Trump administration's trade bailout programs are costly to American taxpayers and harmful to the environment, they may also run afoul of our commitments at the World Trade Organization (WTO). Specifically, the bailout package could violate the Agreement on Agriculture (AoA) and the Agreement on Subsidies and Countervailing Measures (SCM), both of which violations would only compound the problems already faced by American farmers and ranchers.

The AoA is designed to provide rules and guidance that allow countries to "determine whether their policies for any given year are potentially trade-distorting," "to calculate the costs of any distortion," and to "report those costs to the WTO in a public and transparent manner."[72] The types of domestic subsidy are classified in a series of "boxes" that are assigned colors similar to traffic lights depending upon how much their domestic supports distort global trade. Although there are a few other categories of subsidies, including prohibited ones, the major permissible ones are categorized as "green box," "amber box" and "de minimis exemptions."

Green box classifications are considered non-trade distorting and have little effect on production, and for this reason, member countries are free to provide unlimited domestic subsidies in this category. As the WTO notes: "They tend to be programmes that are not targeted at particular products, and include direct income supports for farmers that are not related to production levels or prices."[73] In the case of the Trump administration bailouts, for example, the Food Purchase and Distribution Program falls under this category.

De minimis exemptions are subsidies that are very small relative to the value of the product or the production of specific agricultural products. Spending for these subsidies has to be less than 5 percent "of the value of production—either total or product-specific."[74] There are also categories of subsidies that do not require reporting to the WTO because they do not "involve direct payments to producers."[75] The Trade Promotion Program is one such exempted payment category.

With respect to Trump's bailout packages, however, it is the Market Facilitation Program payments that may be considered amber box subsidies and run afoul of the AoA. Although these exemptions are considered permissible, those that fall under this category are the most likely to distort trade,

67. Keith Hall, "Direct Spending and Revenue Effects of the Conference Agreement for H.R. 2, the Agriculture Improvement Act of 2018," Congressional Budget Office, Dec. 11, 2018. https://www.cbo.gov/system/files/2018-12/hr2conf_0.pdf.

68. Vincent H. Smith et al., "Agricultural Policy in Disarray: Reforming the Farm Bill—An Overview," American Enterprise Institute, Oct. 1, 2017, p. 1. http://www.aei.org/wp-content/uploads/2017/10/Agricultural-Policy-in-Disarray.pdf.

69. Josh Sewell, "Impact of U.S. Agriculture Subsidies on Water Quality," Taxpayers for Common Sense, April 2018, p. 3. https://www.taxpayer.net/wp-content/uploads/2018/04/Impact-of-U.S.-Agriculture-Subsidies-on-Water-Quality-1.pdf.

70. Ibid., p. 1.

71. Ibid., p. 3.

72. Randy Schnepf, *WTO Disciplines on U.S. Domestic Support for Agriculture*, Congressional Research Service, Sept. 19, 2018, p. 1. https://fas.org/sgp/crs/misc/IF10983.pdf.

73. World Trade Organization, "Domestic Support in Agriculture," accessed June 18, 2019. https://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm.

74. Ibid.

75. Ibid.

as they "include measures to support prices, or subsidies directly related to production quantities."[76] For this reason, they are subject to aggregate annual spending limitations. For example, the United States has agreed to limit annual amber box subsidies to $19.1 billion.[77] Before the president's trade bailout programs, the United States spent "only" about $5.2 billion annually on amber box programs.[78] If Trump's MFP payments were limited to only the first bailout package, this means only the $10 billion allocated to the MFP would be counted toward this limit. Thus, even if the entire amount from the first bailout is counted as an amber box outlay, even the total $15.2 billion figure (MFP + the normal, average spending before MFP) would fall under the United States' $19.1 billion cap. However, if the second bailout program's $14.5 billion payments are also considered amber box subsidies, the United States would significantly exceed its $19.1 billion annual subsidy cap.

Doing so would likely cause WTO members to issue a challenge on the basis that its bailout programs are violating the terms of the Agreement on Agriculture. But even if the subsidies were fully compliant with the AoA's rules and limitations, under the WTO's Subsidies and Countervailing Measures (SCM) agreement, they still could be potentially actionable and subject to dispute settlement challenges if the support they provide results "in price or trade distortion in international markets that, in turn, cause adverse effects upon another WTO member."[79]

To date, no countries have filed a dispute against the United States over the president's programs, but Australia, Canada, China, the EU and other WTO members recently asked for more information on the MFP and suggested it may violate WTO commitments.[80] However, if the tariffs persist and escalate and if trading partners retaliate in kind, the bailout programs may increase in cost or extend in duration, either (or both) of which would make a WTO challenge more likely.

POLICY RECOMMENDATIONS

American farmers and ranchers are the most productive and capable in the world. Totaling over $140 billion in fiscal year 2017, agricultural exports comprised about 20 percent of farm income.[81] Despite this, American agriculture producers face high trade barriers when attempting to access a number of foreign markets. And, recent trade policy decisions by the Trump administration have only exacerbated this problem. However, there are a number of proactive steps policymakers can take to ease the burden and to truly expand foreign market access.

Eliminate Recent Tariffs

When the Trump administration eliminated its section 232 tariffs on Canadian and Mexican steel and aluminum in May of 2019, our North American trading partners reacted kind—removing their retaliatory tariffs against American exports, including agricultural products. Accordingly, to begin repairing the self-inflicted damage done to our agricultural export markets, the Trump administration should lift the Section 232 steel and aluminum tariffs for all the remaining countries. Likewise, the United States should remove the tariffs on imports from China that were levied under Section 301, and pursue more targeted policies to discipline Beijing's admittedly troubling trade policy practices. Once these tariffs are removed, the United States will have no reason to maintain either of the emergency agriculture bailout packages.

Moreover, despite the president's repeated claims that foreigners are paying them, recent studies confirm that the costs of the tariffs are borne entirely by American consumers.[82] In fact, it is estimated that the 2018 trade wars are reducing real U.S. income by $1.4 billion per month.[83] Accordingly, not only would removing the tariffs benefit American consumers—both firms and individuals—our agriculture producers would also see an immediate and needed increase in foreign sales.

Cut Agricultural Subsidies

While getting back to the pre-2018 status quo through the removal of tariffs and the elimination of the trade bailout program is a good first step, it does not go nearly far enough, as even our existing domestic agricultural subsidies damage our trade relations and harm the poor in developing countries.[84] In fact, this has long been at issue at the WTO, where during the Doha Development Round in 2001, its members established an aggressive agenda to further liberalize world

76. Ibid.

77. Randy Schnepf, *Agriculture in the WTO: Rules and Limits on U.S. Domestic Support*, Congressional Research Service, Sept. 6, 2018, p. 3. https://fas.org/sgp/crs/row/R45305.pdf.

78. Randy Schnepf, *Potential WTO Implications of USDA's Proposed Response to Trade Retaliation*, Congressional Research Service, July 28, 2018. https://fas.org/sgp/crs/misc/IN10940.pdf.

79. *Agriculture in the WTO: Rules and Limits on U.S. Domestic Support*, p. 3. https://fas.org/sgp/crs/row/R45305.pdf.

80. Tom Miles, "Trump and Modi's lavish farm payouts prompt questions at WTO," *Reuters*, June 17, 2019. https://www.reuters.com/article/us-farm-payouts-wto/trump-and-modis-lavish-farm-payouts-prompt-questions-at-wto-idUSKCN1TI1VZ.

81. "U.S. Farm Exports Hit Third Highest Level on Record." https://www.fas.usda.gov/newsroom/us-farm-exports-hit-third-highest-level-record.

82. See, e.g., Pablo D. Fajgelbaum et al., "The Return to Protectionism," National Bureau of Economic Research, March 2019. https://www.nber.org/papers/w25638; Mary Amiti et al., "The Impact of the 2018 Trade War on U.S. Prices and Welfare," Centre for Economic Policy Research, March 2, 2019. http://www.princeton.edu/-reddings/papers/CEPR-DP13564.pdf.

83. Ibid.

84. Daniel A. Sumner, "Picking on the Poor: How US Agricultural Policy Hurts the Developing World," American Enterprise Institute, July 12, 2011. http://www.aei.org/wp-content/uploads/2011/11/-picking-on-the-poor-how-us-agricultural-policy-hurts-the-developing-world_15192995761.pdf.

trade with a particular focus on unfair trade practices in agriculture and their negative effects on these struggling nations.

By 2008, however, the Doha Round was collapsing due, in part, to the United States' and European Union's unwillingness to curb their domestic subsidies. The Bush administration, for instance, offered to reduce current trade-distorting subsidies by 70 percent, but that was "deemed insufficient by almost all WTO members."[85] Likewise, the United States and India clashed over "the extent to which developing countries could raise tariffs on agricultural goods in the event of an import surge."[86] As a result of such impasses, the Doha Round of negotiation was officially abandoned in 2015—for the first time in the history of the GATT and WTO.[87]

Despite these setbacks, the potential gains from agricultural liberalization are too great to ignore. For example, a 2006 study from the Congressional Budget Office noted: "If all policies worldwide that distort agriculture trade were phased out [between 2005-2015], the likely annual benefit to the world by 2015 would be roughly $50 billion to $185 billion, which is about 3 percent to 13 percent of the value added by world agriculture [...] In studies that incorporate effects of productivity growth rates, the benefits are 50 percent to 100 percent larger."[88] Put simply, as the world's richest country, then, offering to curb agriculture subsidies is the largest bargaining chip the United States has in multilateral trade negotiations.

Once the United States offers to pare down its own domestic subsidies, other countries will be more inclined to open up their agricultural markets to products from American farmers and ranchers. Moreover, once it makes such a good-faith effort, the United States will be better positioned to challenge protectionist agricultural policies in foreign countries at the World Trade Organization through the dispute settlement system. For these reasons, multilateral trade liberalization through the WTO is still the best path forward for American farmers and ranchers. To do that, however, it must be willing to slay its own sacred cows.

Rejoin and Renegotiate

Finally, in addition to its other efforts, the United States should rejoin the TPP and push forward with trade negotiations with the European Union. American agriculture has been the biggest loser from President Trump's ill-conceived decision to withdraw from the TPP. Before the TPP, agriculture entering Japan, for instance, had an average tariff rate of 19 percent.[89] Under the terms of the TPP, however, those tariffs were essentially eliminated among the 12 member countries. Additionally, the agreement eliminated some tariff rate quotas on a number of agricultural products and prohibited all members from providing export subsidies.[90] Since this deal no longer applies to the United States, American farmers and ranchers are understandably losing market access in the Asia Pacific region—the largest agricultural market in the world. Rejoining the TPP would therefore be a wise decision.

Another lucrative market for American farmers and ranchers are the 28 countries in the European Union. The United States began negotiating a trade agreement with the EU known as the Transatlantic Trade and Investment Partnership (TTIP) in 2013. The last round of negotiations took place in October 2016. [91] However, the talks were placed on hold as the Trump administration began charting a radically different course for U.S. trade policy. In 2018, the administration notified Congress of its intent to begin negotiating a scaled-back version of TTIP.[92] This would likely be a challenge because like the United States, the EU overly subsidizes its agricultural industries and thus the topic will be a sticking point in trade negotiations. However, consumers and producers in both would benefit if the two sides could agree to curb their subsidies, tariffs and other protectionist trade barriers.

In any event, jumpstarting large, regional and multilateral trade can pay significant dividends for American agriculture producers. In order to do that, however, the United States must take affirmative steps to lead the way.

CONCLUSION

U.S. farmers and ranchers are capable of helping to feed the world, but they need more market access abroad. Currently, however, the United States' unwillingness to curb domestic agriculture subsidies is the single largest hurdle to expanded access abroad. As the collapse of the Doha Round at the WTO demonstrated, the problems with domestic agriculture subsidies predate the Trump administration. Yet the current administration's ill-conceived trade policies are hurting farmers and ranchers and the subsequent mitigation efforts

85. Philip I. Levy and Scott Lincicome, "For Obama, Free Trade is Key to Success," American Enterprise Institute, Dec. 29, 2010. https://www.aei.org/publication/for-obama-free-trade-is-key-to-success.

86. Douglas A. Irwin, *Clashing Over Commerce: A History of US Trade Policy* (University of Chicago Press, 2017), p. 676.

87. Ibid.

88. "Agricultural Trade Liberalization," Congressional Budget Office, Nov. 20, 2006. https://www.cbo.gov/publication/18251.

89. Office of the United States Trade Representative, "The Trans-Pacific Partnership: Benefits for U.S. Agriculture," Executive Office of the President, 2016, p. 1. https://ustr.gov/sites/default/files/TPP-Benefits-for-US-Agriculture-Fact-Sheet.pdf.

90. Ibid.

91. "Report of the 15th Round of Negotiations for the Transatlantic Trade and Investment Partnership," European Commission, October 2016. http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc_155027.pdf.

92. "Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the European Union and the United Kingdom." https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/october/trump-administration-announces.

are rapidly exacerbating the problem. If the United States is to push forward with broad trade liberalization, it will need to end the trade bailout program and begin to minimize the existing subsidy regime. The time to do so is now, as the costs of inaction are simply too high to ignore.

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