

THE CURRENT WTO AGREEMENT ON AGRICULTURE AND PATHS FORWARD

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ABSTRACT

In recent years, international trade has become a popular item of discussion. This topic impacts all people, but has an especially acute impact on those involved in agriculture. Producers around the globe rely on the international market for a place to sell their produce, and many consumers around the world eat imported food. The Agreement on Agriculture contains a set of agreed-upon rules that govern how agricultural products are traded internationally, but only a small section of specialists are familiar with the Agreement.

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This Article provides a brief overview of the structure of the World Trade Organization Agreement on Agriculture, which governs the international trade of agricultural products. Part I provides an introduction and contextual information related to the Agreement. Part II will provide a brief overview of the Agreement, including some of the main differences between the Agreement and other World Trade Organization agreements, and some history about the evolutions of the agreement. Part III will identify some of the more controversial aspects of the agreement including domestic subsidies, export subsidies, and tariff rate quotas. Finally, Part IV will look at some newer concepts that might influence the Agreement, including impacts on developing countries and environmental considerations.

I. INTRODUCTION

Agriculture is one of the oldest industries in human history and is necessary for life to exist and prosper. All countries recognize the great influence that access to natural resources, and the productivity of the food and fiber production system, has had in fostering a peaceful international community. In the same way, trade in agricultural products has been occurring between peoples for almost as long as people have been growing crops.¹ Though the independence that agricultural self-sufficiency provides has been a focus of many countries, almost every country engages in trade in agricultural products at some level. This has forced the international community to collaborate to establish rules and to regulate international trade in agricultural products.

The international community has been committed to working together to improve the lives of global citizens and to stabilize geopolitical relationships. The United Nations (UN) was established during the closing months of World War II in 1945 in an attempt to foster global peace on the international stage.² To support this mission, the UN, representing the international community through the voices of member states, has long acknowledged the eradication of hunger as a measure of achieving the larger idea of international peace.³ This is highlighted by the inclusion of “Zero Hunger” as Sustainable Development Goal 2, which the UN is

1. See Kym Anderson, *Agriculture's Globalization: Endowments, Technologies, Tastes and Policies*, 37 J. ECON. SURV. 1314, 1316 (2023).

2. *History of the United Nations*, UNITED NATIONS (Aug. 30, 2025, at 23:57 CT) <https://www.un.org/en/about-us/history-of-the-un> [<https://perma.cc/7A2W-7LM6>].

3. U.N. SECRETARY-GENERAL, THE SUSTAINABLE DEVELOPMENT GOALS REPORT 2022 at 9 (Sept. 11, 2025, at 13:16 CT), <https://unstats.un.org/sdgs/report/2022/The-Sustainable-Development-Goals-Report-2022.pdf> [<https://perma.cc/KWH5-4LA6>].

striving to achieve to help foster global peace and prosperity.⁴ Not only is food security a basic human right of all individuals,⁵ the sufficient national supply of food and fiber is a vitally important consideration for any national government.

There may be tensions between the right to “an adequate standard of living . . . including adequate food”⁶ and the sovereign right of states to govern within their own borders. The UN recognizes the right of sovereignty in Article 2(1) of the UN Charter: “The Organization is based on the principle of the sovereign equality of all its Members.”⁷ By agreeing to the terms of the Charter, member states (Members) agree to recognize the authority of each other state to govern and control policy within their own borders. However, actions taken within the border of one state often have impacts within the border of another state. This extraterritorial impact can lead to tension among Members.⁸ Although one state has the right to enact legislation that addresses conduct within the state’s territorial jurisdiction, the extraterritorial impact may violate the sovereignty of another state and may be illegal under international law.⁹

This tension can be further escalated when the substance of the domestic legislation concerns a matter of national security interest. As discussed later, agricultural production is a matter of national security interest.¹⁰ The respect of a state’s sovereignty is vital, but it is difficult to determine where state action (like

4. *Goal 2: End Hunger, Achieve Food Security and Improved Nutrition and Promote Sustainable Agriculture*, UNITED NATIONS STAT. DIV. (Sept. 15, 2025, at 11:41 CT), <https://unstats.un.org/sdgs/report/2016/goal-02/> [<https://perma.cc/3BVP-4KUL>].

5. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

6. *Id.* at 7. The U.S. has not ratified this convention and is not a party to it. *See, e.g.,* Kenzie R. Winton, *Policy Implications and Recommendations Concerning the United States’ Non-Ratification of International Human Rights Treaties*, PEPP. POL’Y REV., Apr. 23, 2024, at 3.

7. U.N. Charter art. 2, ¶ 1 (the U.N. Charter is the founding document for the organization and is seen similarly to a constitution); *see* Michael W. Doyle, *The UN Charter: A Global Constitution?*, in CHARTER OF THE UNITED NATIONS 67, 68 (Ian Shapiro & Joseph Lampert eds., 2014).

8. “Members” here refers to members of the UN. Elsewhere in this Article, “member states” may refer to states who are members of other international groups such as the WTO or a particular negotiation round.

9. *See* Doyle, *supra* note 7, at 84.

10. *See* discussion *infra* Section I.B.

legislation) is intended to have extraterritorial effects—especially because international trade law necessarily has extraterritorial implications.¹¹

As part of the wider effort to stabilize international relations, states have attempted to identify a set of rules that can govern international trade. The World Trade Organization (WTO) was established on January 1, 1995, after the completion of the Uruguay Round negotiations.¹² According to the WTO, the organization’s goal is “to ensure that trade flows as smoothly, predictably and freely as possible.”¹³ The Agreement on Agriculture (AoA) was originally implemented beginning in 1995 as a result of the same Uruguay Round negotiations that established the WTO.¹⁴ The main purpose of the AoA, according to WTO Dispute Resolution Panels, “is to ‘establish a basis for initiating a process of reform of trade in agriculture’ in line with, inter alia, the long-term objective of establishing ‘a fair and market-oriented agricultural trading system.’”¹⁵

Agricultural trade has recently received much more attention within the United States and internationally.¹⁶ Although agricultural producers have historically been a powerful group within United States politics, the issue of international trade has become a much more prominent issue in political campaigns than it was previously.¹⁷ During the first Trump administration, agricultural

11. MENNO T. KAMMINGA, *Extraterritoriality*, MAX PLANCK ENCYCLOPEDIA OF PUB. INT’L L. (Sept. 2020), <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1040?prd=MPIL> [<https://perma.cc/7R69-5BGD>].

12. *The History of the Multilateral Trading System*, WORLD TRADE ORG. (Nov. 3, 2025, at 8:26 CT), https://www.wto.org/english/thewto_e/history_e/history_e.htm [<https://perma.cc/V3TJ-QGHJ>]. The Uruguay Round negotiations and agreements represent a monumental shift in international trading. As mentioned above, the Uruguay Round resulted in the creation of the WTO and several agreements that regulate various areas of international trade. See BRIAN McDONALD, *THE WORLD TRADING SYSTEM: THE URUGUAY ROUND AND BEYOND* 38–42 (1998).

13. *The WTO*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:01 CT), https://www.wto.org/english/thewto_e/thewto_e.htm [<https://perma.cc/XR2P-TBLT>].

14. Uruguay Round Agreement on Agriculture, Apr. 15, 1994, 1867 U.N.T.S. 410 (entered into force Jan. 1, 1995) [hereinafter Agreement on Agriculture]; *Agriculture*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:04 CT) [hereinafter *Agriculture*], https://www.wto.org/english/tratop_e/agric_e/agric_e.htm [<https://perma.cc/A7RC-5ML3>].

15. Panel Report, *Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products*, ¶ 7.25, WTO Doc. WT/DS113/R (adopted May 17, 1999).

16. See generally Judith Goldstein, *The Impact of Ideas on Trade Policy: The Origins of U.S. Agricultural and Manufacturing Policies*, 43 INT’L ORG. 31 (1989).

17. DOUGLAS A. IRWIN, *CLASHING OVER COMMERCE: A HISTORY OF U.S. TRADE POLICY* 625 (2017); see also John Brinkley, *Why is Trade Such a Big Deal in the Election Campaign?*, FORBES (Mar. 3, 2016, at 10:19 ET), <https://www.forbes.com/sites/johnbrinkley/2016/03/03/why-is-trade-such-a-big-deal-in-the-election-campaign/> (stating that, besides NAFTA in the

producers bore a significant portion of the retaliatory tariffs imposed by China.¹⁸ President Trump's rhetoric around international trade has only become more aggressive in recent years, which would have many consequences for American agricultural producers.¹⁹ This has led to an analysis of international trade from different perspectives, with a specific eye on agricultural production. This analysis comes at a time when there is an increased willingness to analyze the global trading system writ large.²⁰

The primary purpose of this Article is to introduce the reader to the AoA, analyze some controversial aspects associated with the AoA, and anticipate some potential routes for change that could be coming for the international trade of agricultural products. This Article will begin by providing context about the WTO AoA to the reader in Part II, including a brief overview of some major themes of the AoA, some of the primary ways that the AoA differs functionally from other WTO agreements, and a history of some of the previous negotiations that have impacted the AoA.²¹ Part III will provide the reader with a description of some of the most controversial aspects of the current AoA including domestic subsidies, export subsidies, and tariff rate quotas.²² Lastly, Part IV will describe some newer concepts that could influence the future AoA (or new agreements) including impacts on developing countries, and environmental considerations.²³

II. INTRODUCTION TO THE WTO AGREEMENT ON AGRICULTURE

The AoA may not be familiar to much of the public, as it typically does not receive a large amount of attention outside a small group of specialists. Part II will

1992 presidential campaign, trade has almost never been discussed as much as it has been during the 2016 campaign).

18. Clark Packard, *Trump's Trade Wars Have Made Bad Agriculture Policies Worse*, FOREIGN POL'Y (Oct. 27, 2020, at 16:53 CT), <https://foreignpolicy.com/2020/10/27/trump-trade-wars-farmers/> [https://perma.cc/H5KA-7A9Y].

19. *Four Ways Trump Could Impact the Agriculture Sector During Second Term*, MO. INDEP. (Nov. 12, 2024, at 07:10 CT) <https://missouriindependent.com/2024/11/12/four-ways-trump-could-impact-the-agriculture-sector-during-second-term/> [https://perma.cc/S2E2-8SCQ].

20. The WTO, specifically the Dispute Settlement Body, has struggled to transition with the modern world. This has led many to criticize the current system, and call for the reformation of the international trading system. See generally Giorgio Sacerdoti & Leonardo Borlini, *Systemic Changes in the Politicization of the International Trade Relations and the Decline of the Multilateral Trading System*, 24 GERMAN L.J. 17 (2023) (critiquing the existing WTO rules and calling for reform).

21. See discussion *infra* Part II.

22. See discussion *infra* Part III.

23. See discussion *infra* Part IV.

introduce the AoA and provide context to the contents of the AoA. This Part will examine some of the main ideas of the AoA, discuss how the AoA relates to other international trade agreements, and provide a brief history of previous negotiations that modified the AoA after it was established.

A. Overview of the Agreement on Agriculture

The prevailing trend in international trade law for most of the period after World War II has been the liberalization of trade. “Trade liberalization” typically refers to the opening-up of domestic economies to the rest of the international community.²⁴ This typically occurs through the removal of tariff and non-tariff barriers.²⁵ The traditional justification is that stronger economic ties between states will make national economies more resilient and will lead to benefits for consumers.²⁶ The AoA reflects this desire by seeking to liberalize trade in agricultural products. As discussed above, the AoA was part of the initial Uruguay Round agreements signed in 1994 and entered into force in 1995.²⁷ The AoA is based on three pillars: (1) market access programs; (2) governance of export programs; and (3) domestic programs.²⁸

24. See Kalim Siddiqui, *Trade Liberalization and Economic Development*, 44 INT’L J. POL. ECO. 228, 230 (2015).

25. *Id.* The definition of a tariff is “a schedule of duties imposed by a government on imported or in some countries exported goods” *Tariff*, MERRIAM WEBSTER (Aug. 31, 2025, at 00:11 CT), <https://www.merriam-webster.com/dictionary/tariff> [<https://perma.cc/A9V8-ES39>]. A non-tariff barrier is “any measure, other than a customs tariff, that acts as a barrier to international trade.” *Non-Tariff Barriers*, INST. FOR GOV’T (Aug. 31, 2025, at 00:12 CT), <https://www.instituteforgovernment.org.uk/article/explainer/non-tariff-barriers> [<https://perma.cc/X52W-ZWFU>].

26. See Siddiqui, *supra* note 24, at 230–32; Snjaya Acharya, *Trade Liberalization, in* PALGRAVE DICTIONARY OF EMERGING MARKETS AND TRANSITION ECONOMICS, 393, 394–96 (J. Hölscher et al. eds., 2015).

27. See *Legal Texts: The WTO Agreements*, WORLD TRADE ORG. (Nov. 11, 2025, at 10:48 CT), https://www.wto.org/english/docs_e/legal_e/ursum_e.htm [<https://perma.cc/JYH5-VHB9>]; *Agriculture, supra* note 14.

28. See Agreement on Agriculture, *supra* note 14, at 412–417. Part III, containing Articles 4 and 5 of the Agreement, discusses Market Access. Part IV, containing Articles 6 and 7, discusses domestic programs. Part V, containing Articles 8–11, discusses export programs. See Tim Josling & Stefan Tangermann, *Implementation of the WTO Agreement on Agriculture and Developments for the Next Round of Negotiations*, 26 EUR. REV. AGRIC. ECON. 371, 372 (1999); Shona Hawkes & Jagjit Kaur Plahe, *Worlds Apart: The WTO’s Agreement on Agriculture and the Right to Food in Developing Countries*, 34 INT’L POL. SCI. REV. 21, 25 (2013).

The market access pillar is primarily aimed at making the global trading system more transparent and accessible to all states.²⁹ In theory, this would facilitate more trade and allow more actors to participate. Market access has been a goal of the international trading system even before the AoA and is applicable to all industries touched by international trading law.³⁰ The liberalization that occurred because of commitments made during the Uruguay Round negotiations has seen tariffs for agricultural products lowered by approximately 24% in developing countries and approximately 36% in developed countries.³¹ Besides lowering tariffs on the importation of goods, WTO members also sought to make tariff rates public and allow more goods to be imported.³²

The AoA also attempts to limit the amount of export assistance programs that countries were providing to their agriculture industries.³³ These programs essentially provide funds to producers when the producer exports a product. Article 8 of the AoA prohibits member states from “provid[ing] export subsidies” unless they are described as an exception in Article 9 of the AoA.³⁴ As described below, national governments may incentivize higher levels of production without impacting the domestic price of a certain product by paying agricultural producers to export their goods.³⁵ The reduction of these types of subsidies would contribute to the liberalization of trade by limiting the distortive effect that a country’s domestic policies may have on the global market, and the effect on other member state’s domestic markets.

Domestic support programs include those which affect prices or provide financial support that impacts agricultural production within the territory of the

29. See Josling & Tangerman, *supra* note 28, at 372.

30. See *Committee on Market Access*, WORLD TRADE ORG. (Sep. 9, 2025, at 10:34 CT), https://www.wto.org/english/tratop_e/markacc_e/markacc_com_e.htm [<https://perma.cc/DER5-TSTK>].

31. *Agriculture: Fairer Markets for Farmers*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:18 CT), https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm [<https://perma.cc/89LB-PQEB>].

32. See Hawkes & Plahe, *supra* note 28, at 26 (stating that “countries could convert their nontariff barriers (NTBs) . . . to tariff equivalents”). Converting NTBs to tariff equivalents would allow goods to enter the member state that would have been excluded under the nontariff barrier. See *id.* at 26–27.

33. *Export Competition/Subsidies*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:18 CT), https://www.wto.org/english/tratop_e/agric_e/ag_intro04_export_e.htm [<https://perma.cc/BS7J-VQM4>].

34. Agreement on Agriculture, *supra* note 14, at 417–18. The exceptions, as listed in Article 9, are limited to the implementation period. *Id.* This implementation period has already passed, *id.* at 411, and the mission of eliminating export subsidies has been largely successful.

35. See discussion *infra* Section II.B.

subsidizing government.³⁶ The term “subsidy” has been defined by the WTO to include three required elements: (1) a financial contribution; (2) by a government (or public body within the territory); (3) which provides a benefit.³⁷ Domestic subsidies are traditionally only actionable³⁸ when they are specific, which would seem to include subsidy programs that only provide benefits to the agricultural industry.³⁹ Article 6 of the AoA generally obligates member states to reduce the amount of domestic subsidies that they grant to producers.⁴⁰ However, the AoA specifically allows governments to grant agricultural producers certain domestic subsidies.⁴¹ Under the AoA, permitted domestic subsidy programs are categorized into three boxes: amber, green, and blue.⁴²

Subsidies included in the amber box include those that were considered to be the most harmful to the international trading regime and should accordingly be the most restricted.⁴³ The amber box contains “trade-distorting domestic supports” and is governed by Article 6 of the AoA.⁴⁴ This “include[s] measures to support prices, or subsidies directly related to production quantities.”⁴⁵ This box would include the traditional types of subsidies (direct payments, price assistance) that the negotiators of the AoA sought to limit.⁴⁶ These subsidies are the most distorting to trade (among domestic subsidies) because they directly impact the price of the goods by lowering the cost to produce an item domestically, influencing the purchase price of an item, or by influencing the supply amount without directly

36. See *Domestic Support*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:19 CT), https://www.wto.org/english/tratop_e/agric_e/ag_intro03_domestic_e.htm [<https://perma.cc/J733-QAXG>].

37. *Trade Guide: WTO Subsidies Agreement*, INT’L TRADE ADMIN. (Sep. 11, 2025, at 13:08 CT), <https://www.trade.gov/trade-guide-wto-subsidies> [<https://perma.cc/3DVP-LB86>].

38. “Actionable” here means that another country could bring suit to challenge the legality of the subsidy before an international dispute resolution panel. *Agreement on Subsidies and Countervailing Measures (“SCM Agreement”)*, WORLD TRADE ORG. (Sep. 8, 2025, at 09:06 CT) [hereinafter *SCM Agreement*], https://www.wto.org/english/tratop_e/scm_e/subs_e.htm [<https://perma.cc/6GUU-C92G>].

39. *Trade Guide: WTO Subsidies Agreement*, *supra* note 37.

40. *Agreement on Agriculture*, *supra* note 14, at 415–16.

41. *Id.*

42. *Domestic Support in Agriculture: The Boxes*, WORLD TRADE ORG. (Sep. 8, 2025, at 12:18 CT) https://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm [<https://perma.cc/S2RZ-HT2Q>].

43. *Id.*

44. *Id.*; *Agreement on Agriculture*, *supra* note 14, at 415–16.

45. *Domestic Support in Agriculture: The Boxes*, *supra* note 42.

46. See *id.*

influencing the demand.⁴⁷ While not completely abolished, these types of domestic subsidies are the most restricted within the AoA because of the direct distorting effect that they have on international trade.⁴⁸

The blue box was created as a “compromise between the EU and the USA”⁴⁹ This box has been described as an “amber box with conditions” by the WTO.⁵⁰ These include any measures that would otherwise belong in the amber box but have an additional requirement that would limit domestic production.⁵¹ These subsidies may include environmental or sustainability payments to agricultural producers to subsidize their incomes; the idea being that the government would provide income that the producers would have received if they had produced at normal levels.⁵² There are currently “no limits on spending” in this box.⁵³ An example in United States domestic law is the Conservation Stewardship Program (CSP). The CSP provides direct payments to United States agricultural producers when they agree to either “maintain the existing level of conservation” or “implement additional conservation activities.”⁵⁴ This program is considered a subsidy under international trade law because this program involves financial payments given by the government directly to producers.⁵⁵ However, the effect on the international market is secondary to the goal of environmental stewardship and sustainability. Because this box places limits on the amount of production of a given product, there is less concern about the amount of trade distortion that would occur as a result.⁵⁶

47. *See id.*; Sherzod R. Karimov, International Trade Distorting Agricultural Subsidies: Legal and Policy Analysis 8–13 (May 2005) (L.L.M. Thesis, Indiana University School of Law—Bloomington) (on file with the Indiana University Maurer School of Law).

48. *Domestic Support in Agriculture: The Boxes*, *supra* note 42. Subsidies in the amber box are subject to reduction commitments, and member states are not allowed to increase the amount of amber box subsidies that they already grant. *Id.*

49. Hawkes & Plahe, *supra* note 28, at 26.

50. *Domestic Support in Agriculture: The Boxes*, *supra* note 42.

51. *Id.*

52. Agreement on Agriculture, *supra* note 14, at 429.

53. *Domestic Support in Agriculture: The Boxes*, *supra* note 42.

54. *Conservation Stewardship Program (CSP)*, NAT. RES. CONSERVATION SERV., U.S. DEP’T OF AGRIC., (Aug. 31, 2025, at 00:20 CT), <https://www.nrcs.usda.gov/programs-initiatives/csp-conservation-stewardship-program> [<https://perma.cc/HM5U-EMDQ>]. In practice, this provides payments to encourage farmers to incorporate conservation practices. *Id.*

55. *Glossary*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:28 CT), https://www.wto.org/english/thewto_e/glossary_e/glossary_e.htm [<https://perma.cc/S2P6-W564>] (click dropdown for “S” and choose “subsidy”).

56. *Domestic Support in Agriculture: The Boxes*, *supra* note 42.

The AoA places the least amount of restrictions on domestic subsidies that only indirectly support agricultural producers.⁵⁷ The green box is described in Annex 2 of the AoA.⁵⁸ This box includes subsidies paid by the government but are not based on production levels or prices, such as research funding and extension services.⁵⁹ Because they are not linked to production levels or prices, these subsidies are not thought to be trade distorting and are not currently capped by the AoA.⁶⁰

The AoA was created to further liberalize trade in agricultural products by the negotiating countries at the Uruguay Round.⁶¹ The rules laid out in the AoA attempt to facilitate more trade among countries by increasing market access, limiting government export assistance programs, and limiting domestic support programs.⁶²

B. Relationship Between the Agreement on Agriculture and Other WTO Agreements

The Uruguay Round negotiations resulted in multiple agreements addressing several aspects of international trade, and these agreements inevitably interact with one another.⁶³ These agreements represent a major shift in the international trading system and generally aimed to liberalize trade. While the AoA is more generally accepting of these subsidies and protectionist policies, other agreements more aggressively limit the overall level of subsidization and tilt unflinchingly towards trade liberalization. Some of the primary differences between the AoA and the other trade agreements involve a high level of acceptance of domestic and export subsidization.

The AoA interacts with all WTO trade agreements. Prior to the changes made to the global trading regime because of the Uruguay Round negotiations and the entry into force of the AoA, the General Agreement on Tariffs and Trade (GATT) governed the trade of agricultural products despite many exceptions and

57. *Id.*

58. *Id.*

59. *Id.*; see discussion *infra* Section III.A (providing a description of the U.S. Cooperative Extension Service).

60. *Domestic Support in Agriculture: The Boxes*, *supra* note 42.

61. See Agreement on Agriculture, *supra* note 14, at 410.

62. *Id.*

63. See *The Uruguay Round*, WORLD TRADE ORG. (Nov. 11, 2025, at 18:10 CT), https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm [<https://perma.cc/WT46-ZXUB>]; Michael Unger, *GATT Rounds: Who, What, When*, HINRICH FOUND. (Dec. 7, 2017), <https://www.hinrichfoundation.com/research/tradevistas/wto/gatt-rounds> [<https://perma.cc/GR9B-VACA>].

caveats.⁶⁴ The GATT was renegotiated during the Uruguay Round Negotiations, which led to the creation of the WTO during the 1990s. The resulting agreement, GATT 1994, largely incorporates GATT 1947 and is contained in Annex 1A of the WTO Agreement.⁶⁵ The AoA explicitly states in Article 21.1 that “The provisions of GATT 1994 and of other Multilateral Trade Agreements in Annex 1A to the WTO Agreement shall apply subject to the provisions of this Agreement.”⁶⁶ Article 3.1 of the AoA echoes this sentiment by explicitly stating, “The domestic support and export subsidy commitments in Part IV of each Member’s Schedule constitute commitments limiting subsidization and are hereby made an integral part of GATT 1994.”⁶⁷ Additionally, one of the goals for the AoA was to create a space for domestic policy making that would continue to acknowledge the national security interests of agricultural production while liberalizing trade.⁶⁸ Articles XX and XXI of the current GATT provide for exceptions to otherwise governing GATT rules.⁶⁹ There has been a considerable amount of scholarship devoted to these ideas, but that discussion as related to agricultural production subsidies is outside the scope of this paper.⁷⁰

The Agreement on Subsidies and Countervailing Measures (ASCM) and the AoA are both interested in subsidies, but the ASCM is about all products generally while the AoA is specifically related to agriculture.⁷¹ The ASCM outlines the international rules governing subsidies and countervailing measures.⁷² The ASCM outlines rights and obligations of WTO member states, and partially outlines the

64. *See generally* General Agreement on Tariffs and Trade, Oct. 30, 1947, 55 U.N.T.S. 194.

65. General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, 1867 U.N.T.S. 190. The differences between GATT 1947 and GATT 1994 are outside the scope of this paper and will not be explored here.

66. Agreement on Agriculture, *supra* note 14, at 423.

67. *Id.* at 412.

68. Lasha Ularjishvili, *Relationship of Agreement on Agriculture with other WTO Agreements*, LINKEDIN (Mar. 19, 2018), <https://www.linkedin.com/pulse/relationship-agreement-agriculture-other-wto-lasha-ularjishvili/> [<https://perma.cc/3Y6W-33UV>].

69. *See* General Agreement on Tariffs and Trade, *supra* note 64, at 262–66.

70. *See generally* Giulia Claudia Leonelli, *Environmental Unilateralism and the Chapeau of Article XX GATT: The ‘Line of Equilibrium’ and the Question of ‘Differently Situated’ Countries*, 57 J. OF WORLD TRADE 709 (2023); Kento Ikeda, *A Proposed Interpretation of GATT Article XXI (b) (ii) in Light of Its Implications for Export Control*, 54 CORNELL INT’L L.J. 437 (2021).

71. Ularjishvili, *supra* note 68.

72. The ASCM was a result of the Uruguay Round negotiations. *See generally* Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, 1869 U.N.T.S. 14; *SCM Agreement*, *supra* note 38.

rules governing anti-dumping injury determinations.⁷³ The ASCM generally seeks to prevent the use of subsidies that may distort international trade, and included exceptions that WTO members may invoke to implement certain policy objectives.⁷⁴ The ASCM allows for agricultural subsidies that are not in violation of the AoA, so long as the subsidies are reported to the Subsidies and Countervailing Measures committee.⁷⁵ Article 13 of the AoA specifically outlines exceptions from ASCM and GATT 1994 rules for subsidies related to agricultural production during the implementation period that ended on January 1, 2003.⁷⁶ Although subsidies during this time were not in violation of the international agreements, they were still countervailable.⁷⁷ While the ASCM would normally govern all subsidies, these exceptions place agricultural subsidies outside of ASCM jurisdiction while member states had a chance to transition their domestic subsidy regimes.⁷⁸

Although the Agreement on the Application of Sanitary and Phytosanitary Measures (ASPSM) does have some substantive overlap with the AoA, the two agreements focus on different aspects of international trade.⁷⁹ The ASPSM entered into force at the same time as GATT 1994 and the AoA.⁸⁰ The ASPSM begins to build a “multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade.”⁸¹ The goal of this “framework” is to build a system that ensures the safety of food, and the health of plants and animals that go into food products.⁸² The ASPSM urges member states to harmonize their

73. Peggy A. Clarke & Gary N. Horlick, *The Agreement on Subsidies and Countervailing Measures*, in *THE WORLD TRADE ORGANIZATION: LEGAL, ECONOMIC AND POLITICAL ANALYSIS* 679, 681 (Patrick F.J. Macrory, Arthur E. Appleton & Michael G. Plummer eds., 2005).

74. See Nu Ri Jung, *Are There ‘Exceptions’ to the SCM Agreement? Applicability of the GATT Exceptions Vis-à-Vis the International Rules on Subsidies*, 57 *J. WORLD TRADE* 457, 457–59 (2023).

75. *SCM Agreement*, *supra* note 38.

76. Ularjishvili, *supra* note 68.

77. *SCM Agreement*, *supra* note 38.

78. Ularjishvili, *supra* note 68; *SCM Agreement*, *supra* note 38.

79. See generally Agreement on Agriculture, *supra* note 14; see Ularjishvili, *supra* note 68.

80. Agreement on the Application of Sanitary and Phytosanitary Measures, Apr. 15, 1994, 1867 U.N.T.S. 493 [hereinafter ASPSM].

81. *Id.* at 493.

82. *Understanding the WTO Agreement on Sanitary and Phytosanitary Measures*, WORLD TRADE ORG. (May 1998), https://www.wto.org/english/tratop_e/sps_e/spsund_e.htm [<https://perma.cc/3JZN-WNWW>].

food safety laws to conform with international model standards.⁸³ The ASPSM explicitly prohibits using unnecessary sanitary and phytosanitary standards as protectionist measures by stating in Article 2 that “any sanitary or phytosanitary measure is applied *only* to the extent necessary to protect human, animal or plant life or health.”⁸⁴ There will be overlap with the AoA because the ASPSM regulates food safety.⁸⁵ However, the ASPSM primarily deals with the harmonization of member state standards and other technical barriers to trade while the AoA primarily deals with subsidization of agricultural production and products.⁸⁶ Although there is an acknowledgement that the ASPSM will have an effect on international trade,⁸⁷ the expected impact is likely less than the impact of the AoA.

While the AoA is the dominant international trading agreement related to agriculture, it is important to keep in mind that other agreements are also relevant to the trade in agriculture.⁸⁸ As discussed above, the GATT, the ASCM, and the ASPSM are examples of how other agreements interact with the AoA to create the rules for international trade in agricultural products.

C. History of Post-Uruguay Round Agriculture Negotiations

At the time that the AoA was initially implemented, it required further rounds of negotiation beginning in 1999 in an attempt to further liberalize trade.⁸⁹ The inclusion of continual reform acknowledges the need for international regulation to adapt to a changing technological and industrial landscape.

Changes to the international trading order are accomplished at Ministerial Conferences (MCs).⁹⁰ MCs are “[t]he topmost decision-making body of the WTO”

83. *Id.*

84. ASPSM, *supra* note 80, at 494 (emphasis added).

85. *Id.* at 497.

86. *See generally* ASPSM, *supra* note 80; Agreement on Agriculture, *supra* note 14. The Economic Research Service of the USDA defines technical barriers to trade as “regulations and standards governing the sale of products into national markets that have as their *prima facie* objective the correction of market inefficiencies stemming from externalities associated with the production, distribution, and consumption of these products.” DONNA ROBERTS, TIMOTHY E. JOSLING & DAVID ORDEN, ECON. RSCH. SERV., U.S. DEP’T OF AGRIC., TECH. BULL. NO. 1876, A FRAMEWORK FOR ANALYZING TECHNICAL TRADE BARRIERS IN AGRICULTURAL MARKETS 3 (1999).

87. *Understanding the WTO Agreement on Sanitary and Phytosanitary Measures, supra* note 82.

88. Ularjishvili, *supra* note 68.

89. Josling & Tangermann, *supra* note 28, at 371.

90. *Ministerial Conferences*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:22 CT), https://www.wto.org/english/thewto_e/minist_e/minist_e.htm [<https://perma.cc/GR4H-E5EK>].

and have provided much of the forward movement on agriculture negotiations since the Uruguay Round.⁹¹ MCs usually meet every two years and include representatives from all WTO members.⁹² They can then modify or reform for any multilateral trade agreement, including the AoA.⁹³ Each conference can be seen as a snapshot of at least some of the global political focus of the trading system because of the nature of the individuals who are chosen as ministers for their respective countries. While each MC brings important reforms and modifications to the international trading order, some MCs have been particularly monumental for the formation of the current AoA.

While the first three MCs (Singapore in 1996, Geneva in 1998, and Seattle in 1999) were very important to the functioning of the WTO and had implications for international trade, they had little impact on the AoA.⁹⁴ This was during the implementation period of the AoA reduction commitments, so it is not surprising that these MCs did not alter the AoA.⁹⁵

The Fourth MC, held in Doha, Qatar, in 2001, had major implications for the international trading regime generally, and the AoA specifically.⁹⁶ The Doha MC saw the admittance of China to the WTO, which would have a huge impact on the international trading regime.⁹⁷ The Doha MC also saw the launch of the “Doha

91. *Id.*

92. *Id.*

93. *See id.*

94. These implications included the accession of many countries to the WTO, understandings about the new dispute settlement body, and a reaffirmation on continual negotiations. *The First WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:23 CT), https://www.wto.org/english/thewto_e/minist_e/min96_e/min96_e.htm [<https://perma.cc/T7X8-MJUQ>]; World Trade Organization, Singapore Ministerial Declaration of 13 December 1996, WTO Doc. WT/MIN(96)/DEC (1996); *The Second WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:24 CT), https://www.wto.org/english/thewto_e/minist_e/min98_e/min98_e.htm [<https://perma.cc/89T9-FQVY>]; World Trade Organization, Ministerial Declaration of 20 May 1998, WTO Doc. WT/MIN/(98)/DEC/1 (1998); *The Third WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:25 CT), https://www.wto.org/english/thewto_e/minist_e/min99_e/min99_e.htm [<https://perma.cc/R96Z-46CW>].

95. *See Agriculture (I)*, WORLD TRADE ORG. (Sep. 8, 2025, at 14:12 CT), https://www.wto.org/english/thewto_e/minist_e/min99_e/english/about_e/07ag_e.htm [<https://perma.cc/H39G-S4QF>].

96. *See* World Trade Organization, Ministerial Declaration of 14 November 2001, WTO Doc. WT/MIN(01)/DEC/1, 41 I.L.M. 746 (2001).

97. *See* Abdullah Ghafoor, Sardar Omer Hassan Khan & Mehreen Siyyab Abbasi, *Examining China's Integration Into the World Trade Organization (WTO): Effects, Obligations, and Lessons*, 1 L. & POL'Y REV. 74, 79 (2022).

Development Round.”⁹⁸ While recognizing the progress made in regards to the implementation of the AoA so far, the MC committed to greater market access for all WTO members, further reductions of export subsidies and domestic subsidies, and to taking “non-trade concerns” into consideration when negotiating future changes to the AoA.⁹⁹ The MC also recognized the role that the AoA would have in regards to the larger Doha Development Round negotiations.¹⁰⁰ In part, the Doha Round negotiations sought “to eliminate export subsidies, sharply reduce tariffs and domestic farm subsidies, and expand tariff rate quotas.”¹⁰¹ This effort was ultimately unsuccessful, though, and the Doha negotiations failed.

The Fifth MC was held in Cancún, Mexico, in 2003.¹⁰² The primary task of this MC was to reaffirm the dedication to continuing the Doha Round negotiations.¹⁰³

The Sixth MC was held in Hong Kong in 2005.¹⁰⁴ The resulting declarations related to the AoA included reaffirming the commitment to the Doha Round negotiations and commitments to cutting domestic subsidies, eliminating export subsidies, and lowering tariffs (while keeping the Special Safeguard Mechanism in place).¹⁰⁵ Special attention was given to cotton, and calls were made to intensify

98. See generally Surya P. Subedi, *The Road from Doha: The Issues for the Development Round of the WTO and the Future of International Trade*, 52 INT’L & COMPAR. L. Q. 425, 425 (2003).

99. See generally World Trade Organization, Ministerial Declaration of 14 November 2001, *supra* note 96.

100. *Id.*; see discussion *infra* Section III.A.

101. GARY CLYDE HUFBAUER, JEFFREY J. SCHOTT & WOAN FOONG WONG, FIGURING OUT THE DOHA ROUND 18 (2010).

102. *The Fifth WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2005, at 00:27 CT), https://www.wto.org/english/thewto_e/minist_e/min03_e/min03_e.htm [<https://perma.cc/4NJ6-YS5T>].

103. *Id.*

104. *The Sixth WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2005, at 00:27 CT), https://www.wto.org/english/thewto_e/minist_e/min05_e/min05_e.htm [<https://perma.cc/897B-PUPE>].

105. World Trade Organization, Ministerial Declaration of 18 December 2005, WTO Doc. WT/MIN(05)/DEC, ¶ 4–10 (2005). According to the WTO, a Special Safeguard Mechanism is “[a]n example of flexibility considered in the agriculture negotiations for use by developing countries that will allow them to raise tariffs temporarily to deal with import surges or price falls.” *Glossary*, *supra* note 55 (click dropdown for “S” and choose “special safeguard mechanism”).

negotiations related to the “trade-distorting policies” put in place by member states.¹⁰⁶

The Seventh and Eighth MCs were held in Geneva, Switzerland in 2009 and 2011, respectively.¹⁰⁷ The Seventh MC was not a negotiating MC, and the primary focus was on how the international trading community could contribute to the recovery from the 2008 financial crisis.¹⁰⁸ While the Eighth MC also did not include any major negotiations related to agriculture, the attendees celebrated Russia joining the WTO.¹⁰⁹

The Ninth MC was hosted in 2013 in Bali, Indonesia.¹¹⁰ Negotiations resulted in several important declarations relating to agriculture including a call for the creation of a mechanism to make agricultural tariff rate quota administration more transparent, and another declaration to reduce export subsidies in agriculture.¹¹¹

The Tenth MC, hosted in Nairobi, Kenya in 2015, resulted in an important new commitment from the members to eliminate export subsidies in agriculture.¹¹²

106. Ministerial Declaration of 18 December 2005, *supra* note 105, at ¶ 11–12. Cotton has been a special topic of discussion in MCs and in scholarly discourse. *See generally* JULIAN ROCHE, *THE INTERNATIONAL COTTON TRADE* (1st ed. 1994) (covering the history of international cotton trade); William Ridley & Stephen Devadoss, *Competition and Trade Policy in the World Cotton Market: Implications for US Cotton Exports*, 105 AM. J. AGRIC. ECON. 1365 (2023) (discussing contemporary issues in the international cotton trade). This discussion is outside the scope of this paper.

107. *Seventh WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:30 CT), https://www.wto.org/english/thewto_e/minist_e/min09_e/min09_e.htm [<https://perma.cc/BR88-LG5H>]; *Eighth WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:31 CT), https://www.wto.org/english/thewto_e/minist_e/min11_e/min11_e.htm [<https://perma.cc/73TR-HSY4>].

108. *Seventh WTO Ministerial Conference*, *supra* note 107; *Lamy Urges Unity in Efforts to Conclude Doha Round Next Year; Chair Underlines Stabilizing Role of the WTO Amid Economic Crisis*, WORLD TRADE ORG. (Nov. 30, 2009), https://www.wto.org/english/news_e/news09_e/mn09a_30nov09_e.htm#dg_stat [<https://perma.cc/VQJ8-TP79>].

109. *Eighth WTO Ministerial Conference*, *supra* note 107.

110. *Ninth WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:40 CT), https://www.wto.org/english/thewto_e/minist_e/mc9_e/mc9_e.htm [<https://perma.cc/NB7J-SJKZ>].

111. *Id.*; World Trade Organization, *Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture*, Ministerial Decision of 7 December 2013, WTO Doc. WT/MIN(13)/39, ¶ 1–4 (2013); World Trade Organization, *Export Competition*, Ministerial Declaration of 7 December 2013, WTO Doc. WT/MIN(13)/40, ¶ 1 (2013).

112. *Tenth WTO Ministerial Conference*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:42 CT), https://www.wto.org/english/thewto_e/minist_e/mc10_e/mc10_e.htm [<https://perma.cc/>].

The members at the Conference decided to build on the reduction of export subsidies from the Bali Conference in order to promote the UN Sustainable Development Goal of Zero Hunger.¹¹³ The UN Sustainable Development Goals “provide[] a shared blueprint for peace and prosperity for people and the planet, now and into the future.”¹¹⁴ By eliminating this advantage to producers in more developed and richer countries, producers in developing countries will be able to more fairly compete.¹¹⁵

The WTO hosted the Eleventh MC in Buenos Aires, Argentina in 2017.¹¹⁶ After the major commitments agreed to in Nairobi in 2015, the focus in Buenos Aires was on areas like fisheries and e-commerce rather than agriculture.¹¹⁷ There were “no agreements . . . reached on any of the agricultural issues . . .”¹¹⁸

After initially being delayed due to the COVID-19 pandemic, the WTO hosted the Twelfth MC in Geneva, Switzerland in 2022.¹¹⁹ There was a large focus on discussing agriculture, possibly due to supply chain shortages during and experiences dealing with the Russian invasion into Ukraine.¹²⁰ These events highlighted issues within supply chain resiliency¹²¹ and led to a dramatic shortage

5EH4-2DU4]; *Export Competition*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:41 CT), https://www.wto.org/english/thewto_e/minist_e/mc10_e/1980_e.htm [<https://perma.cc/8G5Y-BQHS>].

113. *Export Competition*, *supra* note 112.

114. *The 17 Goals*, DEP’T OF ECON. & SOC. AFFS., UNITED NATIONS (Aug. 30, 2025, at 23:58 CT), <https://sdgs.un.org/goals> [<https://perma.cc/44P5-LFND>] (stating that the U.N. “recognize[s] that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests”).

115. *Tenth WTO Ministerial Conference*, *supra* note 112.

116. FOOD & AGRIC. ORG. OF THE UNITED NATIONS, TRADE POLICY BRIEFS, ELEVENTH WTO MINISTERIAL CONFERENCE (MC11) – OUTCOMES FOR AGRICULTURE AND FISHERIES (2018), <https://openknowledge.fao.org/server/api/core/bitstreams/50947913-a05b-45f9-b30c-7643c57c371c/content> [<https://perma.cc/XJ2Z-2YD8>].

117. *Id.*

118. *Id.*

119. Sean Doherty & Aditi Sara Verghese, *Understanding the WTO Ministerial Meeting: What Just Happened and What’s Next?*, WORLD ECON. F. (June 20, 2022), <https://www.weforum.org/stories/2022/06/wto-meeting-mc12-what-just-happened/> [<https://perma.cc/P2LD-E48G>].

120. *Id.*

121. *See Issue Brief: Supply Chain Resilience*, COUNSEL OF ECON. ADVISORS, THE WHITE HOUSE (Nov. 30, 2023), <https://bidenwhitehouse.archives.gov/cea/written-materials/2023/11/30/issue-brief-supply-chain-resilience/> [<https://perma.cc/6Y5D-AVJX>].

of grain in the international market.¹²² The grain shortage disproportionately affected “poorer countries.”¹²³ Naturally, these unexpected events took some members by surprise, and the focus of the Ministerial Conference reflects some of these concerns.¹²⁴ Some of the outcomes include “a Ministerial Declaration on the emergency response to food insecurity . . . and a Ministerial Decision on exempting World Food Programme (WFP) humanitarian food purchases from export prohibitions or restrictions.”¹²⁵ These steps underscored the WTO’s commitment to playing their part in “improving global food security and improv[ing] the functioning and resilience of global food markets.”¹²⁶

The Thirteenth MC, the most recent, was held in Abu Dhabi, United Arab Emirates in 2024.¹²⁷ Although the agricultural negotiations were intense and a draft work plan was created, the members “were not able to reach consensus on the work plan.”¹²⁸ Some of the substantive sticking points were rules regarding “public stockholding for food security purposes.”¹²⁹

The changes agreed to by the negotiating parties at the Ministerial Conferences show a willingness to engage in some necessary reform and to make updates to the AoA through a deliberate process. Changing the international agricultural trading system is difficult because of the complexity and tensions that

122. See *How the Russian Invasion of Ukraine Has Further Aggravated the Global Food Crisis*, EUR. COUNCIL, COUNCIL OF THE EUR. UNION (Jan. 31, 2025), <https://www.consilium.europa.eu/en/infographics/how-the-russian-invasion-of-ukraine-has-further-aggravated-the-global-food-crisis/> [<https://perma.cc/2CFJ-S9T2>].

123. *Id.*

124. Doherty & Verghese, *supra* note 119.

125. *Agriculture Negotiations*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:44 CT), https://www.wto.org/english/thewto_e/minist_e/mc12_e/briefing_notes_e/bfagric_e.htm [<https://perma.cc/L5Z5-KMFF>].

126. *Id.*

127. *13th WTO Ministerial Conference*, WORLD TRADE ORG. (Sept. 10, 2025, at 11:28 CT) https://www.wto.org/english/thewto_e/minist_e/mc13_e/mc13_e.htm [<https://perma.cc/D4R4-4RBY>].

128. *Food and Agriculture*, WORLD TRADE ORG.: 13TH WTO MINISTERIAL CONF. (Apr. 2024), https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/agriculture_e.htm [<https://perma.cc/8AK8-FWL2>].

129. *Id.* “Public stockholding is a commonly used public policy tool employed to limit price volatility and smooth supply.” CALVIN MANDUNA & SOPHIA MURPHY, INST. FOR AGRIC. & TRADE POL’Y, PUBLIC STOCKS AT THE WTO: MAKING SENSE OF FOOD SECURITY AND AGRICULTURE NEGOTIATIONS AT MC13 at 1 (2024), https://www.iatp.org/sites/default/files/2024-02/2024_public_stockholding_3_final.pdf [<https://perma.cc/9RVU-VSNX>]. Public stockholding occurs when a government purchases produce and holds it from use on the market. This could be for food aid, in preparation of future emergency situations, or for economic purposes. *Id.*

are present. The next Part will introduce and discuss some of the controversial aspects of the current AoA and will begin to explain the controversy.

The above MCs demonstrate the international trading community's commitment to analyzing the effectiveness of the AoA. Although the dominant ideas behind the AoA about liberalizing trade have largely remained in place, there have been attempts to introduce more far-reaching changes.¹³⁰ There is an increasing attitude in favor of rethinking international trade generally, and the AoA specifically.¹³¹

III. CONTROVERSIAL ASPECTS OF THE CURRENT AGREEMENT ON AGRICULTURE

The AoA has had many critics in the past. This part will introduce three of the most controversial concepts in the AoA: domestic subsidies, export subsidies, and tariff rate quotas. After providing a brief description of each concept, each section will also provide an example of the concept within United States domestic law and will describe some of the reasons that the concept is controversial.

A. Domestic Subsidies

Advocates for a strong domestic agricultural industry have identified several reasons why a strong agricultural industry is important, including national security based on food sovereignty, environmental concerns, and populist protectionism.¹³² Although “the [AoA] does not contain a definition of the terms ‘subsidy’ or ‘subsidies[,]’”¹³³ the WTO Appellate Body has noted that a subsidy “arises where the grantor makes a ‘financial contribution’ which confers a ‘benefit’ on the recipient, as compared with what would have been otherwise available to the recipient in the marketplace.”¹³⁴ This is consistent with the definition found in other WTO documents and United States domestic law.¹³⁵

130. *Agriculture Negotiations*, *supra* note 125.

131. *Food and Agriculture*, *supra* note 128.

132. Anderson, *supra* note 1, at 1316, 1320.

133. Appellate Body Report, *United States—Tax Treatment for “Foreign Sales Corporations”*, ¶ 136, WTO Doc. WT/DS108/AB/R (adopted Feb. 20, 2000).

134. Appellate Body Report, *Canada—Measures Affecting the Importation of Milk and the Exportation of Dairy Products*, ¶ 87, WTO Doc. WT/DS113/AB/R (adopted Oct. 13, 1999).

135. See *Glossary*, *supra* note 55 (click dropdown for “S” and choose “subsidy”); 19 U.S.C. § 1677(5)(B).

As discussed above, the negotiators of the AoA saw addressing domestic subsidies as part of their overall mission of liberalizing trade.¹³⁶ The AoA primarily addresses domestic subsidies in Article 6: “Domestic Support Commitments.”¹³⁷ Although the reduction of domestic subsidy programs was not a primary focus of the original AoA,¹³⁸ at least some domestic support programs were also limited and set to be reduced.¹³⁹ Perhaps this was done in support of the market access pillar discussed above: lowering the domestic subsidies would potentially make the prices of previously subsidized goods closer to the international market price.¹⁴⁰ This would potentially make the price of the domestic and imported goods more equivalent.

An example of a domestic subsidy program within the United States, fitting within the green box, is the cooperative extension system.¹⁴¹ The program has roots in 1862 with the Morrill Act and was formally established in 1914 with the Smith-Lever Act.¹⁴² This government-funded program is administered by the USDA and is operated through the land-grant university system.¹⁴³ This program provides funding to each state through one or more university systems in that state to conduct agricultural research and provide best practices to agricultural producers within that state.¹⁴⁴ The program also maintains a post-secondary agricultural

136. KYM ANDERSON, FINISHING GLOBAL FARM TRADE REFORM: IMPLICATIONS OF DEVELOPING COUNTRIES 1–2 (2017).

137. Agreement on Agriculture, *supra* note 14, at 415–16.

138. Josling & Tangermann, *supra* note 28, at 377.

139. Thomas C. Beierle, *From Uruguay to Doha: Agricultural Trade Negotiations at the World Trade Organization*, 14 (Resources for the Future, Discussion Paper 02-13, 2002).

140. *See id.* at 13.

141. *Cooperative Extension System*, NAT’L INST. OF FOOD & AGRIC., U.S. DEP’T OF AGRIC. (Aug. 31, 2025, at 00:49 CT), <https://www.nifa.usda.gov/about-nifa/how-we-work/extension/cooperative-extension-system> [<https://perma.cc/9JY3-BCLF>].

142. Morrill Act of 1862, ch. 130, 12 Stat. 503; Smith-Lever Act of 1914, ch. 79, 38 Stat. 372.

143. Morrill Act of 1862 ch. 130.

144. *See generally id.* After racial segregation became normal, Congress passed the 1890 Morrill Land Grant Act. *See* Agricultural College Act of 1890 (Second Morrill Act), ch. 841, 26 Stat. 417–19 (codified at 7 U.S.C. § 322). This act established a land grant university for non-white students to attend. *Id.* These Historically Black Colleges and Universities still exist today in some (but not all) states, depending on how prominent racial segregation was within the state at the time of passage. *1890 Land-grant Institutions Programs*, NAT’L INST. OF FOOD & AGRIC., U.S. DEP’T OF AGRIC. (July 10, 2025), <https://www.nifa.usda.gov/grants/programs/1890-land-grant-institutions-programs> [<https://perma.cc/DQ4A-KTMC>]. Then, Congress added more institutions through the Equity in Educational Land-Grant Status Act in 1994. Equity in Educational Land-Grant Status Act of 1994, Pub. L. 103-382, § 531, 108 Stat. 3518, 4048 (codified at 7 U.S.C. § 301). This act added Tribal College Universities that

education program at the land grant university to train future agricultural industry professionals.¹⁴⁵ This meets the definition of a domestic subsidy because the government is providing a financial contribution that confers a benefit.¹⁴⁶ Additionally, the benefit can be characterized as “specific” in nature because of the focus on supporting agricultural production.¹⁴⁷

United States trading partners have supported different forms of their own domestic subsidies.¹⁴⁸ Some of the European Union’s (EU’s) efforts toward environmental goals were inspirational in creating the blue box.¹⁴⁹ So-called “multifunctional agriculture” that would provide financial support to producers to recognize the non-financial benefit to society that the economic market cannot traditionally reward.¹⁵⁰ Examples of these kinds of non-financial societal benefits include the ecological conservation of plant and animal species, an increase in sustainability, and the increase of socioeconomic viability of specific geographic regions.¹⁵¹ The United States has a version of these programs as well.¹⁵²

Domestic subsidies have been shown to artificially depress international agricultural prices.¹⁵³ This occurs when the subsidy lowers the cost of production,

predominately serve Native American populations. *Id.* Every state has at least one land grant university, but many have multiple. *See Land-Grant University Website Directory*, NAT’L INST. OF FOOD & AGRIC., U.S. DEP’T OF AGRIC. (Nov. 11, 2025, at 19:40 CT), <https://www.nifa.usda.gov/grants/land-grant-university-website-directory> [<https://perma.cc/7Z94-RSHE>].

145. ELENI G. BICKELL, CONG. RSCH. SERV., R45897, *THE U.S. LAND-GRANT UNIVERSITY SYSTEM: OVERVIEW AND ROLE IN AGRICULTURAL RESEARCH* 8–9 (2022).

146. *See Glossary, supra* note 55 (click dropdown for “S” and choose “subsidy”).

147. *See SCM Agreement, supra* note 38.

148. Sophia Murphy, *WTO Agreement on Agriculture: Suitable Model for a Global Food System?*, FOREIGN POL’Y FOCUS (Oct. 4, 2005), https://fpif.org/wto_agreement_on_agriculture_suitable_model_for_a_global_food_system/ [<https://perma.cc/JH68-2L3U>].

149. *See* Tim Josling & Alan Swinbank, *European Union, in* WTO DISCIPLINES ON AGRICULTURAL SUPPORT: SEEKING A FAIRER BASIS FOR TRADE 62–64 (2011) (discussing how the blue box was introduced to accommodate for direct payments that were part of the EU common agricultural policy reforms).

150. Murphy, *supra* note 148.

151. *Id.*

152. *See Environmental Quality Programs (EQIP)*, NAT. RES. CONSERVATION SERV., U.S. DEP’T OF AGRIC. (Aug. 31, 2025, at 00:50 CT), <https://www.nrcs.usda.gov/programs-initiatives/eqip-environmental-quality-incentives> [<https://perma.cc/UY39-DCH3>].

153. Heinz Strubenhoff, *The WTO’s Decision to End Agricultural Export Subsidies is Good News for Farmers and Consumers*, BROOKINGS INST. (Feb. 8, 2016), <https://www.brookings.edu/articles/the-wtos-decision-to-end-agricultural-export-subsidies-is-good-news-for-farmers-and-consumers/> [<https://perma.cc/X2CG-XL5H>].

which would allow the product to be sold at a lower price while still producing a profit.¹⁵⁴ This can disproportionately benefit agricultural producers in richer and more developed countries because their countries would have more resources to provide subsidies while less wealthy and less developed countries have less resources to provide subsidies.¹⁵⁵ As further discussed below, critics of the AoA have complained that the AoA does not adequately account for the interest of developing countries.¹⁵⁶

The domestic agricultural subsidies discussed above allow for a country to enhance their production capacity. The AoA recognizes this and attempts to implement nuanced rules to deal with different types of domestic subsidies.¹⁵⁷ The AoA categorizes domestic subsidies into three buckets and presents different rules for each of the boxes.¹⁵⁸

B. Export Subsidies

Export subsidies highlight the tension between territorial sovereignty and international trade because the funds given by the government are directly contingent upon actions outside of the territory of the state.¹⁵⁹ The WTO defines export subsidies (specifically regarding agricultural products) as “[s]ubsidies contingent on export performance covering agricultural products”¹⁶⁰ Article 9 of the Uruguay Round Agreement on Agriculture specifically addresses export subsidies, and section one identifies programs that would fall within the scope of an export subsidy program.¹⁶¹ In general, export subsidy programs are to be reduced with certain exceptions laid out in sub-article 2(a).¹⁶² In the original Agreement, “[e]xport subsidies were capped both in terms of expenditure and volume”¹⁶³ By incentivizing the exportation of a certain amount of agricultural production, domestic prices can be kept insulated from overwhelming

154. *Id.*

155. *Id.*

156. Murphy, *supra* note 148.

157. See *Agriculture: Fairer Markets for Farmers*, WORLD TRADE ORG. (Aug. 31, 2025, at 00:18 CT), https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm [<https://perma.cc/89LB-PQEB>].

158. *Domestic Support in Agriculture: The Boxes*, *supra* note 42.

159. See discussion *supra* Part I; Doyle, *supra* note 7, at 84.

160. *Glossary*, *supra* note 55 (click dropdown for “E” and choose “export subsidies (agriculture)”).

161. Agreement on Agriculture, *supra* note 14, at 417–18.

162. *Id.* at 417.

163. Josling & Tangermann, *supra* note 28, at 372.

supply and fluctuations in the international market.¹⁶⁴ Export subsidies are sometimes viewed as a way to increase the competitiveness of a product in the international market that may have historically been uncompetitive.¹⁶⁵ As discussed above, several MCs have affirmed the international trading community's commitment to eliminating export subsidies.¹⁶⁶

Opponents of limiting export subsidies voiced fears about the potential effect that a lack of trade barriers would have on domestic prices.¹⁶⁷ These critics feared that the elimination would dramatically lower prices in a short amount of time and would harm producers.¹⁶⁸ Fortunately, the blow from the elimination of export subsidies mandated by the Agreement was softened by high international agricultural prices.¹⁶⁹ This eased the transition for many producers, because it kept prices up without governmental assistance and without harming the domestic market.¹⁷⁰

The effort to eliminate export subsidies has been largely successful globally.¹⁷¹ Although the focus of this paper is predominantly on the United States agricultural industry, the United States generally has less export subsidies than other member states.¹⁷² The EU has historically granted more export subsidies than the United States, and the EU overwhelmingly granted more export subsidies immediately after the Agreement went into force than every other member state

164. See ANDERSON, *supra* note 136, at 44, 86.

165. *Export Subsidies: The Competitive Edge: Understanding Export Subsidies and ECAs*, FASTER CAP. (Apr. 8, 2025), <https://fastercapital.com/content/Export-Subsidies—The-Competitive-Edge—Understanding-Export-Subsidies-and-ECAs.html> [<https://perma.cc/NMX6-9Z3S>].

166. See discussion *supra* Section II.C.

167. Philip H. Trezise, *The Uruguay Round: High Hopes, Hard Realities, and Unfinished Business*, REGUL., Winter 1991, at 30, 35.

168. Alexandre Gohin & Patrice Gautier, *The Phasing Out of EU Agricultural Export Subsidies: Impacts of Two Management Schemes*, 101 *ÉCONOMIE INTERNATIONALE* 5, 7 (2005).

169. See Jerry Light & Thomas Shevlin, *The 1996 Grain Price Shock: How Did it Affect Food Inflation?*, MONTHLY LAB. REV., Aug. 1998, at 3.

170. *Id.*

171. Strubenhoff, *supra* note 153.

172. Cynthia Nickerson, *Behind the Data: WTO Trade Policy Commitments Database*, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC.: AMBER WAVES (Sep. 1, 2006), <https://www.ers.usda.gov/amber-waves/2006/september/behind-the-data> [<https://perma.cc/PK4E-ESTJ>].

combined.¹⁷³ Currently, there is no obvious example of a United States agricultural program that neatly fits into the WTO's definition of an export subsidy.¹⁷⁴

Export subsidies highlight the tension between state sovereignty and a desire for regulation of international trade. This can be understandably controversial for producers outside of the subsidizing country because exportation of agricultural produce can influence the supply in markets outside of the producer's market and drive down international prices.¹⁷⁵ This can harm producers in non-subsidizing countries who export their produce and producers of the subsidized product in countries who import the subsidized goods who may receive a lower price for their products.¹⁷⁶ While the subsidy can be potentially beneficial for consumers, especially those in importing countries, it can harm impacted sectors of the food and fiber production industry.¹⁷⁷ The export subsidy can also distort the market it subsidizes as domestic producers produce less of other products in order to capture the higher price of the subsidy.¹⁷⁸

The AoA is concerned with export subsidies because of these extraterritorial sovereignty concerns.¹⁷⁹ Export subsidies can be quite disruptive to both international and domestic commerce. The AoA's desire to lower the number of agricultural export subsidies to increase the level of trade liberalization, and "level the playing field", throughout the globe has been successful so far.¹⁸⁰

C. Tariff Rate Quotas

Tariff rate quotas (TRQs) represent a sort of middle ground between protectionist measures and the attempt to liberalize trade. The WTO defines a TRQ as an "Import regime in which quantities inside a quota are charged lower import

173. *Id.*

174. Other mechanisms to promote trade and exports are currently used. For example, the USDA's Regional Agricultural Promotion Program (RAPP) (formerly the Agricultural Trade Promotion Program) provides government funding to develop new markets for United States producers. *See* 7 C.F.R. § 1489.10 (2025). RAPP money is to facilitate the opening of markets and is not contingent on the exportation of any goods. *See id.* This program is therefore not in violation of the AoA. *See id.*; RANDY SCHNEPF, CONG. RSCH. SERV., R45940, U.S. FARM SUPPORT: COMPLIANCE WITH WTO COMMITMENTS 9 (2019).

175. Strubenhoff, *supra* note 153.

176. *Id.*

177. Anderson, *supra* note 1, at 1317.

178. *Export Subsidies: The Competitive Edge: Understanding Export Subsidies and ECAs*, *supra* note 165.

179. *See* ANDERSON, *supra* note 136, at 39.

180. *See id.*

duty rates, than those outside” of the quota.¹⁸¹ The difference in duties between goods inside the quota versus those outside the quota can be quite dramatic.¹⁸² In these regimes, a threshold amount is set by the importing country.¹⁸³ All imports that are imported within that threshold are subject to lower customs duties.¹⁸⁴ All importations that are above the threshold limit are subject to the higher customs duties.¹⁸⁵ TRQs can be controversial for a number of reasons. The customs rate for above-level tariffs can be prohibitively high.¹⁸⁶ TRQs can actually lead to a decrease in market access from pre-TRQ levels, and disparity between public and private importers can emerge.¹⁸⁷ TRQs can also result in unnatural supply surges of imported goods because importers will rush to buy as much as possible immediately after the quota opens in an attempt to qualify for the lower rate.¹⁸⁸

The TRQ regime was originally meant to be a transition that allowed market access at a rate that would not overwhelm or harm the market and the producers of the importing country.¹⁸⁹ Prominent WTO members, including the United States, Canada, Japan, and South Korea, have seized on TRQ use to meet AoA obligations while protecting domestic producers.¹⁹⁰

181. *Glossary*, *supra* note 55 (click dropdown for “T” and choose tariff quota (tariff rate quota)). The total amount of goods included in the quota, as well as the customs duty rate, will be determined by the importing country. *See, e.g., Determining Duty Rates*, U.S. CUSTOMS AND BORDER PROT. (Nov. 24, 2024), <https://www.cbp.gov/trade/programs-administration/determining-duty-rates> [<https://perma.cc/LN6Z-KS3K>]. “Customs Duty is a tariff or tax imposed on goods when transported across international borders.” *Customs Duty Information*, U.S. CUSTOMS AND BORDER PROT. (May 14, 2024), <https://www.cbp.gov/travel/international-visitors/know-before-you-visit/customs-duty-information> [<https://perma.cc/82TH-G3RY>].

182. Josling & Tangermann, *supra* note 28, at 374.

183. *See, e.g., id.* at 374–75 (discussing import quotas).

184. *See id.*; R. PEARCE & R. SHARMA, MULTILATERAL TRADE NEGOTIATIONS ON AGRICULTURE: A RESOURCE MANUAL pt. II.5.2 (2000), <https://www.fao.org/4/x7353e/X7353e05.htm> [<https://perma.cc/L4A2-7XVH>].

185. *See* Josling & Tangermann, *supra* note 28, at 374–75 (discussing high tariffs on above-quota imports); PEARCE & SHARMA, *supra* note 184, at pt. II.5.2.

186. *See* Josling & Tangermann, *supra* note 28, at 374.

187. *See id.* at 375.

188. R. PEARCE & R. SHARMA, *supra* note 184, at pt. II.5.

189. *E.g.*, DAVID W. SKULLY, ECON. RSCH. SERV., U.S. DEP’T OF AGRIC., TECH. BULL. NO. 1893, ECONOMICS OF TARIFF-RATE QUOTA ADMINISTRATION at iii (2001) https://ers.usda.gov/sites/default/files/laserfiche/publications/47379/31998_tb1893_002.pdf?v=27791 [<https://perma.cc/TG9M-G5YJ>].

190. *E.g.*, Josling & Tangermann, *supra* note 28, at 374–75.

TRQ's have been used throughout the AoA's history.¹⁹¹ Indeed a TRQ program for agricultural products was established through the same act that implemented the Uruguay Round Agreements Act, including the AoA, into United States law.¹⁹² A contemporary example of TRQ implementation in the United States is the sugar import program.¹⁹³ According to the Customs and Border Patrol (CBP), "Sugar is the largest imported agricultural commodity subject to quota."¹⁹⁴ The sugar import program seems intended to meet American demands for sugar products without flooding the market with supply that would drive down prices and make it difficult for United States producers to compete. Obligations under the North American Free Trade Agreement (NAFTA), and likely under the United States-Mexico-Canada Agreement (USMCA), are honored while allowing the United States government to restrict imports from other countries.¹⁹⁵ First, the USDA establishes the sugar quotas, then the United States Trade Representative determines country specific allocations, and finally the CBP enforces the quotas as the goods attempt to enter the country.¹⁹⁶

While TRQs were meant to be transitional, they have stuck around for decades. TRQs remain popular as a nuanced approach to the market, as they provide enough protection for domestic producers without locking out imported goods. Although there are positives, many criticisms have been leveled against TRQs. It's unclear what role TRQs will play in the future of international agricultural trade.

IV. PATHS FORWARD

Recent political trends signal a turn away from international trade and towards restrictions on international trade.¹⁹⁷ These trends are occurring at the

191. See Josling & Tangermann, *supra* note 28, at 372.

192. 19 U.S.C. § 3601; 15 CFR § 2015.1 (2025).

193. *Sugar Import Program*, FOREIGN AGRIC. SERV., U.S. DEP'T OF AGRIC. (Aug. 31, 2025, at 01:04 CT), <https://fas.usda.gov/programs/sugar-import-program> [<https://perma.cc/7ETD-HMHB>].

194. U.S. CUSTOMS AND BORDER PROT., PUB. NO. 1720-0422, FACT SHEET: SUGAR QUOTA IMPORT PROGRAM (2025), https://www.cbp.gov/sites/default/files/2025-05/factsheet_sugar_quota_import_program_508_compliant_version_updated_05192025.pdf [<https://perma.cc/Y3RW-NR3T>].

195. See *Sugar Import Program*, *supra* note 193.

196. See *id.*; U.S. CUSTOMS AND BORDER PROT., PUB. NO. 1720-0422, *supra* note 194.

197. M. Ayhan Kose & Alen Mulabdic, *Global Trade Has Nearly Flatlined. Populism is Taking a Toll on Growth*, WORLD BANK BLOGS (Feb. 22, 2024), <https://blogs.worldbank.org/en/voices/global-trade-has-nearly-flatlined-populism-taking-toll-growth> [<https://perma.cc/TU29-R5AY>].

same time as people rethink international trade, and particularly about whether the current system is adequate.¹⁹⁸ During the current tumultuous era with an increased desire to see changes to the international trading regime, several areas of potential changes have been suggested. The recent rise of economic nationalism, specifically within the United States, may help explain some of these trends, but a deep analysis of the relationship between economic nationalism and the desire to reform the international trading system is outside the scope of this paper.

This section will discuss two emerging trends in international trade generally, and how they relate to the AoA specifically. Recent changes in international sensibilities may contrast or complement the traditional pure free-market ideals that advocate for trade liberalization. These include discussions about the treatment of developing states and a focus on environmental sustainability in addition to economic concerns.

A. Development Efforts

In conjunction with the goals of the international community (via the UN), one of the goals of liberalizing trade during the last half of the twentieth century leading up to the adoption of the Uruguay Round negotiations was a desire to decrease global poverty.¹⁹⁹ While this has been a success in some ways, there are still concerns about the way that those gains have been distributed within countries.²⁰⁰

Developing and less developed countries may be more susceptible to fluctuations in the global agricultural marketplace but may not have an opportunity to take preemptive action or respond effectively. The agricultural industry can be especially important for developing countries.²⁰¹ By being willing to engage in international trading, smaller countries can be allowed to maintain their comparative advantage²⁰² with certain products while having access to desired

198. See JAMES BACCHUS, *THE FUTURE OF THE WTO: MULTILATERAL OR PLURILATERAL I* (2023), <https://www.cato.org/sites/cato.org/files/2023-05/bacchus-trade-pa.pdf> [<https://perma.cc/K4PY-N96A>].

199. See Geoffrey J. Bannister & Kamau Thuggee, *International Trade and Poverty Alleviation* 24–26 (Int’l Monetary Fund, Working Paper No. 2001/054, 2001).

200. Martin Ravallion, *Inequality and Globalization: A Review Essay*, 56 *J. ECON. LIT.* 620, 626–27 (2018).

201. Anderson, *supra* note 1, at 1315 (citing World Bank and Aguiar et al.).

202. “Comparative advantage” refers to the phenomena where one country has a lower cost of production of a good when compared to another country’s cost of production for the same good. See generally, Ronald Findlay, *Comparative Advantage*, in *THE WORLD OF ECONOMICS* 99–107 (J. Eatwell et al. eds., 1991) (explaining the principle of comparative advantage).

goods that may be difficult or impossible to produce domestically.²⁰³ Critics of the AoA have long complained that the AoA resulted in gains made by already developed countries, and were achieved at the expense of developing and least developed countries.²⁰⁴

At the time that the AoA was originally negotiated during the Uruguay Round, certain provisions were included that were specifically designed to aid developing and least developed countries.²⁰⁵ The AoA allowed for these countries to take more time than developed nations to implement the terms of the AoA as a sort of on-ramp towards trade liberalization.²⁰⁶ As discussed above, developed countries are more likely to have more protectionist policies in place.²⁰⁷ Although the Uruguay Round negotiations were meant, at least in part, to address the disparity between the more industrialized global north and the less industrialized global south, there are many criticisms of the progress made.²⁰⁸ These criticisms have resulted, in part, in attempts to renegotiate portions of the current AoA.²⁰⁹

The above listed concerns about the AoA's effect on developing countries led negotiating countries to attempt to reform certain aspects of the AoA.²¹⁰ As discussed above, the Doha Round was billed as a "development round" and was anticipated to address the interests of developing countries.²¹¹ The incoming agenda and potential changes in the Doha round were seen by the developed world as widespread and aggressive.²¹² At the top of the wish list for developing countries

203. See Nuno Limão & Yang Xu, *Size, Trade, Technology and the Division of Labor* 48 (Nat'l Bureau of Econ. Rsch., Working Paper No. 28969, 2021).

204. See Beierle, *supra* note 139, at 4, 38.

205. See *id.* at 1, 6–7, 17–38.

206. Agreement on Agriculture, *supra* note 14, at 415 (stating that "producers in developing country Members shall be exempt from domestic support reduction commitments . . ."), 418 (stating that "developing country Members shall not be required to undertake commitments in respect of the export subsidies . . ."); see KAREN Z. ACKERMAN ET AL., ECON. RESCH. SERV., U.S. DEP'T OF AGRIC., REPORT NO. WRS-98-4., AGRICULTURE IN THE WTO 48 (1998), https://ers.usda.gov/sites/default/files/_laserfiche/outlooks/40509/51636_wrs98-4.pdf [<https://perma.cc/4S7K-4NAE>].

207. See discussion *infra* Section II.A; Jennifer Clapp, *WTO Agriculture Negotiations: Implications for the Global South*, 27 THIRD WORLD Q. 563, 563 (2006).

208. Agus Dwi Nugroho et al., *Impact of Global Trade Agreements on Agricultural Producer Prices in Asian Countries*, HELIYON, Jan. 2024, at 1, 4 (2024) (stating that "the AoA harms the economy of developing countries . . ."); see Clapp, *supra* note 207, at 564.

209. Clapp, *supra* note 207, at 575.

210. *Id.*

211. *Id.* at 563.

212. See RANDY SCHNEPF, CONG. RSCH. SERV., RS22927, WTO DOHA ROUND: IMPLICATIONS FOR U.S. AGRICULTURE 4–5 (2015).

was a reduction of domestic agricultural in subsidies.²¹³ The Doha Round negotiations saw the emergence of the voice of developing nations in the international trading discussion.²¹⁴ The Doha Round ultimately failed, and some critics claim that the developed countries were too focused on commercial gain at the expense of the original stated goal of development.²¹⁵ The negotiations have stalled with no end in sight. This is despite economic analysis to show that all negotiating countries would benefit from the proposed changes to the AoA, though developing countries would benefit at higher rates.²¹⁶

The desire to allow developing countries to expand their domestic agricultural industries clashes with the desire from the international trading community to reduce domestic and export subsidies. This tension is found in the way the AoA treats subsidies within the amber box.²¹⁷ These subsidies can only be decreased and not increased, which means that developing countries (who were less likely to have these subsidies in place at the time the AoA was negotiated) have no opportunity to implement these measures that were already benefiting developed countries (which were more likely to have these subsidies at higher rates in place at the time the AoA was negotiated).²¹⁸ This raises similar concerns, mentioned above, about how developing countries are treated under the AoA. Because the focus was on lowering *existing* export subsidies rather than attempting to equalize subsidy rates among members, it barred developing countries from implementing potentially helpful programs while enabling developed countries to keep them in place.²¹⁹

Additionally, the current AoA does not address the right to food identified in the International Covenant on Economic, Social, and Cultural Rights (ICESCR).²²⁰ Recognition of the right to food would obligate states to proactively take steps to promote access to food and would prohibit a state from limiting access to food.²²¹ This would seemingly obligate states to implement programs designed

213. See discussion *supra* Section III.A; Hawkes & Plahe, *supra* note 28, at 30.

214. Giovanni Anania & Jean-Christophe Bureau, *The Negotiations on Agriculture in the Doha Development Agenda Round: Current Status and Future Prospects*, 32 EUR. REV. AGRIC. ECON. 539, 541 (2005).

215. Sungjoon Cho, *The Demise of Development in the Doha Round Negotiations*, 45 TEX. INT'L L.J. 573, 575 (2010).

216. HUFBAUER, SCHOTT & WONG, *supra* note 101, at 14.

217. See discussion *supra* Section III.A on amber box subsidies.

218. Hawkes & Plahe, *supra* note 28, at 5.

219. See *id.* at 5–6.

220. See *supra* text accompanying notes 5–6; ICESCR, *supra* note 5, at 7.

221. *Id.*

to improve production and distribution of food.²²² Although the global recognition of this right would implicate domestic agricultural policy and international trade policy, the discussion would fit more appropriately within the larger discussion around international human rights law. That discussion is outside the scope of this paper.

Although the current AoA does acknowledge the national security implications of an adequate domestic food and fiber production system, the AoA does not adequately respond to concerns about food security for developing countries outside of allowing the public stockholding of food under the *de minimis* exception.²²³ Agricultural production has increased globally in the past 60 years, but many developing countries are still unable to produce enough food to meet local demand.²²⁴ These countries often import food to meet demand.²²⁵ Distortions in production capacity (possibly caused by the ability of developed countries to impose domestic subsidies) may have contributed to the concentration of agricultural production. This concentration has led some developing countries to become reliant on other countries to meet their food security needs.²²⁶ This causes friction throughout the international trading community and will likely need to be addressed in future negotiations.

The recent Russian invasion of Ukraine showcases the danger that can come when a large number of food-importing countries become reliant on a small number of food-exporting countries. Ukraine has been a large-scale agricultural exporter, with much of the exports going to developing countries.²²⁷ Many African countries imported over 50% of their wheat from Ukraine and Russia, and the disruptions caused by the war in Ukraine heightened the threat of food insecurity

222. *Id.*; *Right to Food*, SCOTTISH HUM. RTS. COMM'N (Aug. 31, 2025, at 01:06 CT), <https://www.scottishhumanrights.com/our-law-and-policy-work/right-to-food/> [<https://perma.cc/7CWN-P9BB>].

223. Agreement on Agriculture, *supra* note 14, at 426 n. 5; World Trade Organization, Ministerial Decision of 7 December 2013, WTO Doc. WT MIN(13)/38 (2013); World Trade Organization, Ministerial Decision of 19 December 2015, WTO Doc. WT/MIN(15)/44 (2015).

224. METTE WIK, PRABHU PINGALI & SUMITER BROCA, GLOBAL AGRICULTURAL PERFORMANCE: PAST TRENDS AND FUTURE PROSPECTS 2 (2008), <https://openknowledge.worldbank.org/server/api/core/bitstreams/c130efa5-4ffa-5a25-bb9a-3c11c36360d6/content> [<https://perma.cc/6FXQ-UWU2>].

225. *Id.* at 13–14, 33.

226. *Id.*

227. *How the Russian Invasion of Ukraine Has Further Aggravated the Global Food Crisis*, *supra* note 122.

in these countries.²²⁸ The threat of food insecurity may not have been as harsh if those developing countries had the infrastructure to domestically meet their food demand in place at the time of the Russian war in Ukraine. If the countries that relied on Ukraine could have had their own domestic subsidies in place before Russia invaded Ukraine, it is possible that those countries would not have been as reliant on grain from Ukraine because they would have had more robust domestic agricultural production infrastructure.

It seems likely that future AoA renegotiations will seek to address some of these unique concerns that impact developing and least developed countries. As discussed above, negotiating states in the past have shown a willingness to at least acknowledge that developing and developed countries face different obstacles. Additionally, the pro-liberalization attitude has recently given way to an acceptance (if not an embrace) of protectionist measures in countries around the globe.²²⁹ Because the international trading community has become more accepting of protectionist measures, it seems likely that this acceptance of protectionist measures would result in an allowance of developing and least developed countries to further subsidize domestic agricultural production.

B. Focus on the Environment and Sustainability

Climate change has already had an effect on agricultural production,²³⁰ and has disproportionately harmed low income and developing countries.²³¹ Although some remain skeptical of the realities of climate change,²³² there is a longstanding

228. Yulia Bychkovska, *Ukraine's Grain Exports Are Crucial to Africa's Food Security*, ATL. COUNCIL (Apr. 5, 2024), <https://www.atlanticcouncil.org/blogs/econographics/ukraines-grain-exports-are-crucial-to-africas-food-security/> [<https://perma.cc/AN75-YR5F>].

229. See Ridhika Batra, *Why Protectionism and Market Accessibility are Now Driving International Trade*, ATL. COUNCIL: NEW ATLANTICIST (April 7, 2025), <https://www.atlanticcouncil.org/blogs/new-atlanticist/why-protectionism-and-market-accessibility-are-now-driving-international-trade> [<https://perma.cc/YF67-44BW>]; Abdulhamid Sukar & Syed Ahmed, *Rise of Trade Protectionism: The Case of US-Sino Trade War*, 11 TRANSNAT'L CORP. R. 279, 279–80 (2019).

230. See Anderson, *supra* note 1, at 1316.

231. FOOD & AGRIC. ORG. OF THE UNITED NATIONS, *THE IMPACT OF DISASTERS AND CRISES ON AGRICULTURE AND FOOD SECURITY: 2021*, at 5 (2021), <https://openknowledge.fao.org/server/api/core/bitstreams/30c0d98d-1c21-48ef-b5d9-8d988e6fa6f2/content> [<https://perma.cc/N5ND-4D57>].

232. See Riley E. Dunlap, *Climate Change Skepticism and Denial: An Introduction*, 57 AM. BEHAV. SCI. 691, 692–94 (2013).

international consensus that has acknowledged the existence of climate change.²³³ There has been an international effort working to address some of the issues that climate change presents.²³⁴ International agreements related to environmental concerns have existed in some forms for decades,²³⁵ but many point to the Stockholm Conference in 1972 as the landmark in the modern history of environmental agreements.²³⁶ There has been strong willingness amongst many public international law practitioners to engage in multilateral and regional international agreements related to the environment.²³⁷

Although the effects of climate change are universal, there are particular considerations for the agricultural industry. Not only does the agricultural production industry present some unique challenges in the fight against climate change,²³⁸ the WTO has also acknowledged that climate change will have an immense impact on the agricultural industry.²³⁹ Some of the unique considerations for the agricultural industry include lack of biodiversity, impact to water availability and quality, resource sustainability, and greenhouse gas emissions.²⁴⁰ There is a concern that the AoA does not do enough to specifically address the threats.²⁴¹ Even if countries attempted to spend government funds to address some

233. See Krista F. Myers et al., *Consensus Revisited: Quantifying Scientific Agreement on Climate Change and Climate Expertise among Earth Scientists 10 Years Later*, ENV'T RSCH. LETTERS, Oct. 2021, at 1, 2.

234. See DEP'T OF ECON. & SOC. AFFS., UNITED NATIONS, *supra* note 114.

235. See Florencia Ortúzar Greene, *International Environmental Law: History and Milestones*, INTERAMERICAN ASS'N FOR ENV'T DEF. (Mar. 28, 2020), <https://aida-americas.org/en/blog/international-environmental-law-history-and-milestones> [<https://perma.cc/49KX-YVZ7>].

236. See U.N. Conference on the Human Environment, *Report of the United Nations Conference on the Human Environment*, at 3–4, U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972); *United Nations Conference on the Human Environment, 5-16 June 1972, Stockholm*, UNITED NATIONS (Sep. 23, 2025, at 10:05 CT), <https://www.un.org/en/conferences/environment/stockholm1972> [<https://perma.cc/9Y7H-5BKY>].

237. See *Multilateral Actions to Safeguard the Environment: A Timeline*, UNITED NATIONS ENV'T PROGRAMME (Aug. 31, 2025, at 13:09 CT), <https://www.unep.org/multilateral-actions-safeguard-environment-timeline> [<https://perma.cc/F3VD-BXEZ>].

238. *Trade Law and Climate Change*, CTR. FOR CLIMATE ENGAGEMENT, UNIV. OF CAMBRIDGE (August 31, 2025, at 13:11 CT), <https://climatehughes.org/law-and-climate-atlas/trade-law-and-climate-change/> [<https://perma.cc/PM33-A7B6>]; Anderson, *supra* note 1, at 1324.

239. WORLD TRADE ORG., WORLD TRADE REPORT 2022: CLIMATE CHANGE AND INTERNATIONAL TRADE 10 (2022).

240. Anderson, *supra* note 1, at 1324.

241. *Id.* at 1323.

of these issues, that spending would likely be classified as a domestic subsidy and may be challenged at the WTO.²⁴²

While there are potential threats posed by agricultural production, the WTO has also acknowledged that the agricultural industry can play a role in solving or mitigating the effects of climate change.²⁴³ This will likely require a reconsideration of current production practices.²⁴⁴

Some potential solutions lead directly to tensions with the existing international trading system. Trade liberalization has necessarily led to a more globalized and interconnected trading system but has not taken into account the differentiated environmental effects on different locations.²⁴⁵ Although there have always been discussions about combining environmental and sustainability concerns within the larger discussion about agriculture, many critics have noted that such discussions have taken a backseat to other concerns.²⁴⁶ Countries have placed the emphasis on maximizing production rather than producing as much food as possible in a sustainable manner.²⁴⁷ Because of the relatively large amount of natural resources that are used during the food and fiber production process, the agricultural industry has been under pressure to become more efficient and sustainable.²⁴⁸ The act of government financial support in this manner implicates the current domestic subsidies rules discussed in Sections II.A and III.A above.²⁴⁹ The international trading community will likely need to address this tension between the desire to increase sustainability and the desire to liberalize trade in future AoA—and other international trade agreement—negotiations.

Despite an acknowledgement at the close of the Uruguay Round negotiations concerning the importance that environmental concerns have to the international trade community, the international trading community has been slower to respond

242. *Trade Guide: WTO Subsidies Agreement*, INT'L TRADE ADMIN. (Sep. 11, 2025, at 13:08 CT), <https://www.trade.gov/trade-guide-wto-subsidies> [<https://perma.cc/3DVP-LB86>].

243. WORLD TRADE ORG., *supra* note 239, at 18.

244. Oliver C. Ruppel, *Soil Protection and Legal Aspects of International Trade in Agriculture in Times of Climate Change: The WTO Dimension*, SOIL SEC., March 2022, at 1, 3.

245. WORLD TRADE ORG. & UNITED NATIONS ENV'T, MAKING TRADE WORK FOR THE ENVIRONMENT, PROSPERITY AND RESILIENCE 30 (2018), https://www.wto.org/english/res_e/publications_e/unereport2018_e.pdf [<https://perma.cc/E8XY-HNWC>].

246. *E.g.*, Murphy, *supra* note 148.

247. *Id.*

248. Anderson, *supra* note 1, at 1315.

249. *See* discussion *supra* Sections II.A, III.A.

to specific concerns over the environment.²⁵⁰ The desire to liberalize trade, and the connected hostility towards domestic subsidization that have extraterritorial effects, has often taken priority over concerns for combatting climate change. However, recent publications by the WTO show an acknowledgement of the intersectionality of climate change and international trade.²⁵¹

Even though a consensus has emerged acknowledging the threat posed by climate change, several prominent countries have proposed different approaches to combat climate change. The EU has recently implemented a Carbon Border Adjustment Mechanism (CBAM).²⁵² The CBAM “encourage[s] cleaner industrial production in non-EU countries” by placing an additional price on imported goods based on the amount of emissions attributed to the production of the product.²⁵³ Perhaps most relevant for the discussion on the AoA, CBAM would apply to fertilizers commonly used in agricultural production.²⁵⁴ While not discriminating against goods from other nations on first glance, the mechanism may represent a tariff and might not be legal under current WTO law. The United States also recently passed the Inflation Reduction Act (IRA), which provides subsidies to incentivize the transition to green (and assumptively sustainable) energy.²⁵⁵ International critics of the IRA, most notably the Chinese government, have raised concerns about the legality of these subsidies under international trade law.²⁵⁶ Although the AoA is not directly implicated by the IRA, the approach of subsidies to incentivize more sustainable practices should be familiar to the agricultural industry.²⁵⁷

250. See UNITED NATIONS ENV'T PROGRAMME & INT'L INST. FOR SUSTAINABLE DEV., ENVIRONMENT AND TRADE: A HANDBOOK 27, 80 (2000), https://www.iisd.org/system/files/publications/envirotrade_handbook_2005.pdf [<https://perma.cc/5YSN-8W3V>].

251. *Understanding the WTO Agreement on Sanitary and Phytosanitary Measures*, *supra* note 82.

252. *Carbon Border Adjustment Mechanism*, EUR. COMM'N. (Aug. 31, 2025, at 01:13 CT), https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en [<https://perma.cc/7G3P-QYK6>]

253. *Id.*

254. *Id.*

255. Josh Bivens, *The Inflation Reduction Act Finally Gave the U.S. a Real Climate Change Policy*, ECON. POL'Y INST. (Aug. 14, 2024, at 03:16 CT), <https://www.epi.org/blog/the-inflation-reduction-act-finally-gave-the-u-s-a-real-climate-change-policy/> [<https://perma.cc/RPQ8-AA9B>].

256. *Dispute Panel Established to Review Certain Tax Credits under US Inflation Reduction Act*, WORLD TRADE ORG. (NOV. 27, 2024), https://www.wto.org/english/news_e/news24_e/dsb_23sep24_e.htm [<https://perma.cc/TF3P-5LFD>].

257. See discussion *supra* Sections II.A (discussing the USDA's conservation stewardship programs), III.A (discussing the blue box of domestic subsidies used to subsidize sustainable agricultural practices).

The two approaches above represent different potential avenues for members to address climate change while still engaging in international trade. While the identified EU and United States approaches seem to be a break from WTO law, China is outwardly advocating for the international trading community to work within current WTO law to find a solution.²⁵⁸ However, the Chinese government also engages in widespread subsidization of their domestic green energy industry.²⁵⁹ The United States, EU, and China represent three of the largest economic engines on the globe.²⁶⁰ Because these three members are at least tacitly willing to act against traditional international trade thinking to combat climate change, it seems likely that there might be a shift towards a larger acceptance of traditionally illegal (under WTO law) measures in the future.

As discussed above, the disproportionate impact forces the most vulnerable countries (who may be least likely to bear the burden) to pay the cost for the rest of the world to continue with the traditional system of agricultural subsidization.²⁶¹ Without addressing the underlying issues of environmental sustainability, this may create a vicious cycle that cannot be broken. It is likely that new changes to the international trading regime, especially governing agricultural products, will seek to address these issues sooner rather than later. Future AoA negotiating states will likely allow countries to domestically address environmental concerns through tools like domestic subsidies and import duties.

V. CONCLUSION

The agricultural industry serves a vital purpose throughout the globe, and the AoA has done an adequate job of facilitating the international trade of agricultural products. By recognizing the unique role that agriculture plays in both domestic and international policy, the AoA provides a set of useful guardrails to the international trade of agricultural products. Although the AoA is not perfect, avenues for improvement are built in that allow for positive changes over time. In this Article, the structure and purpose of the AoA was described, some of the more controversial aspects of the AoA were discussed, and the arguments for some potential changes were summarized. During the tumultuous time that the

258. Zhang Jianping & Xie Zhiyu, *Climate Change, Trade Policy, and the WTO*, in *REBOOTING MULTILATERAL TRADE COOPERATION: PERSPECTIVES FROM CHINA AND EUROPE* 225, 236–38 (Bernard Hoekman, Tu Xinquan & Wang Dong eds., 2021).

259. Frank Bickenbach et al., *EU Concerns About Chinese Subsidies: What the Evidence Suggests*, 59 *INTERECONOMICS* 214, 214 (2024).

260. *GDP, Current Prices*, INT'L MONETARY FUND (Sep. 10, 2025, at 12:21 CT), https://www.imf.org/external/datamapper/NGDPD@WEO/OEMDC/ADVEC/WEO_WORLD [<https://perma.cc/7FP6-7SPZ>].

261. See discussion *supra* Sections II.C, III.A.

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international trade law community currently finds itself, it may be worthwhile to re-examine how the current system impacts the trade of agricultural products.