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**20<sup>th</sup> March 2008**

**Farm Bill 2002 Extended Through April 2008**

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**The Issue to Hand**

For just on two years the US agricultural sector and legislators have been engaged in talks and planning surrounding the drafting of a new Farm Bill. The US Farm Bill typically covers a 5 year period. The 2002 Farm Bill thus technically expired at the end of 2007. Although both the Senate and Congress had produced draft texts, these could not be merged into an amicable marriage by the end of 2007. This was mainly due to the fact that the draft replacement Bill would require increased budgetary allocations, this funding having to be raised outside of the agriculture sector, which has proved a difficult concept to sell politically, especially at time where agricultural futures are at all time record high levels.

**The Current Stance**

The 2002 Farm Bill enjoyed a 'grace period' whereby it could operate past 31 December 2007 for a limited time, that being to 15 March 2008. It is evident that the legislators have still been unable to pass the Farm Bill 2008 through the joint Congress/Senate conference committee, and the 15 March 2008 deadline was passed without a resolution last week.

The Senate's Agriculture Committee Chairman Tom Harkin is of the view that there should now be a 3- year extension of the current law to get over the political hiatus thereby leaving the hard work to the new post Bush Administration and a newly elected Congress to finally put the new Farm Bill to bed.

On 12 March 2008 the House of Representatives passed a 1-month extension of the 2002 Farm Bill to avoid the legislation reverting to the permanent law. This is however unlikely to be sufficient time finalise the new legislation.

President Bush is also tending toward the extension of the existing legislation. The Administration indicated recently that the President was still awaiting sight of 'significant reforms' in the text of the 2008 Farm Bill, which he still finds absent in the present drafts. The President has indicated that if the text is not agreed by mid April 2008, the Administration would push for a one year extension of the currently applicable 2002 Farm Bill. The essence of the President's objection is that the text as it stands now exceeds the current legislation's so-called 'base line' of \$280 billion. The President concedes that while a long term extension of 2002 Farm Bill is not the desired outcome the government none the less has a responsibility to provide the farming sector a 'timely and predictable farm program'. The President re-emphasised in clear language that that any final Farm Bill that includes a tax increase and/or does not include reform, will face a Presidential veto.

In response to the President's views, discussions in the joint House – Senate Conference Committee negotiations are stalled. This is due to the disagreement between the Administration and Congress as to how to accommodate the approximately \$10 billion in additional spending over the \$280 billion baseline. Essentially there are two avenues – either the Congress must cover the new spending with cuts in other programs, or additional tax revenue must be raised from outside of the agricultural sector. The President is particularly critical of the latter option. In addition the Senate itself is divided as between the Agriculture Committee and the Finance Committee. This is making it difficult to make a coherent approach to the House as regards the conference (amalgamation process). In view of this the House is considering rewriting their draft legislation so as to cut out the contentious \$10 billion overspend.

### **The Alternate Legislative Option**

Without an extension of the 2002 Farm Bill or the promulgation of the awaited 2008 Farm Bill, US farm policy will by default revert back to the underlying 'permanent statutes' established in the 1930's. This fall-back legislation is quite different from current 2002 programs. This so-called permanent law established by the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949 is superseded by subsequent legislation, such as the 2002 Farm Bill, and remains dormant until the subsequent legislation expires. The underlying law does not

reflect current farming and marketing practices, trade agreements, or market circumstances. For example, permanent law does not authorize counter-cyclical payments or decoupled direct payments and imposes acreage allotments and marketing quotas for cotton and wheat. The permanent law also excludes some commodities like rice, soybeans and peanuts. Importantly it sets some support prices much higher than current levels; and prevents new enrollment in various conservation programs. On specific commodities it is notable that the 1949 legislation sets the loan rates for wheat at \$8.32 per bushel, \$4.125 for corn, \$3.75 for sorghum and \$2.99 for barley, and these are all below current market prices. Interesting however is that the cotton rate is set counter to this trend. We note that cotton's 1949 loan rate is actually \$1.32 per pound more than the rate that is currently applied.

It is for this reason that another renewal of the 2002 legislation has been preferred to a complete expiry of the current legislation. It is in part for this reason that extensions of the existing legislation have been made. It is generally agreed that reverting to the 1949 law is not a suitable option, and that further extensions of the current law are more likely.

### **Concluding Comment**

The latest extension of the 2002 Farm Bill is essentially premised on the fact that Congress adjourned on 14 March 2008 for its two week spring recess. The recess commences without the Farm Bill being completed. In this regard both the House and Senate have extended the current Farm Bill from 15 March 2008 to 18 April 2008. The 2002 Farm Bill first expired on 30 September 2007 and has been repeatedly extended to accommodate a difficult and elusive process in drafting the farm legislation to 2013. Indications are that a more solid extension of between 1 and 3 years is likely in the face of the 2009 US Presidential elections thereby allowing a 'new' Administration and Congress to then settle the new Farm Bill, perhaps only 2010.

The following statement from the US President relays some sense of the process at this stage. It seems that his plea is however unlikely to be heeded anytime soon:

**“I believe the government has a responsibility to provide America's farmers and ranchers with a timely and predictable farm program, not multiple short-term extensions of current law. Without a predictable policy, agriculture producers will be unable to make sound business decisions with respect to this year's crop.”**

*[US President George Bush – 13 March 2008]*

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