Federal Direct Price Support Payment Programs

by

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FEDERAL DIRECT PRICE SUPPORT PAYMENT PROGRAMS

INTRODUCTION

With agricultural policy again at a traversal in 1985, the task of Congress to enact comprehensive federal price support legislation intended to lessen the economic risks and uncertainty associated with farming is both formidable and exceedingly critical. The substantive areas of consideration are rife: stability of farm incomes and prices; effective management to achieve that stability; sustaining the supply of food at sound prices to consumers in a stalwart manner; and the improvement of American agricultural ability to compete in international markets.[1] The sensitivity of the American agricultural economy to both domestic and international factors has historically impelled the American farmer to depend on government involvement and assistance, and 1985 is not an exception.

This note will examine the history and administration of federal direct price support payment programs. Additionally, the objectives of federal price support legislation will be analyzed in an effort to determine whether they have been realized, and what should be done to enhance realization if they have not.

HISTORY

Federal Direct Price Support Payment Programs in the 1930's

The Great Depression's effect on agriculture in this country was self-evident. Farm foreclosures, tax sales, and bankruptcies were common, while farm prices were at their lowest level in sixty years. In direct response, the New Deal Administration of President Roosevelt obtained passage of the Agricultural Adjustment Act of 1933.[2] It was, according to President Roosevelt, ". . . the most drastic and far-reaching piece of farm legislation ever proposed in time of peace."[3]

Among the primary purposes of the 1933 Act was to restore farm purchasing power and income to levels which had prevailed during the 1909-1914 base period, employing the McNary-Haugen concept of "parity."[4] The 1933 Act gave the Secretary of Agriculture the authority to secure the volun-

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1. D. JOHNSON, FARM COMMODITY PROGRAMS 22 (1973).
2. Agricultural Adjustment Act, Pub. L. No. 73-10, 48 Stat. 31 (1933).
3. Rasmussen, *New Deal Agricultural Policies After Fifty Years*, 68 MINN. L. REV. 353, 356 (1983) (*citing* F.D. ROOSEVELT, *New Means to Rescue Agriculture – The Agricultural Adjustment Act*, in 2 THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT 74, 79 (1938)).
4. The concept of parity prices, or the same current ratio of farm prices received to the general price index as the ratio that prevailed during a prescribed base period, was originated by the McNary-Haugen Plan. The parity price is designed to enable a farmer's product to enjoy the same purchasing power, in relation to the entire economy, as it enjoyed during the prescribed base period, with the relationship between farm and non-farm prices during the prescribed base period being viewed as the normal or proper one. The prescribed period chosen, 1910-1914, was one of the most prosperous that ever existed for farmers, and has been referred to as "the golden age of agriculture." M. BENEDICT, FARM POLICIES OF THE UNITED STATES, 1790-1950 115 (1975).

tary reduction of acreage of basic crops, and for the first time called for the use of direct payments of price supports for those who participated in the acreage reduction programs.[5]

Less than three years later, the United States Supreme Court, holding that controlling production through taxation was unconstitutional, invalidated the Agricultural Adjustment Act of 1933.[6] It was summarily replaced by the Soil Conservation and Domestic Allotment Act of 1936.[7] Although the 1936 Act contained the essential features of the 1933 Act, it controlled production less effectively.[8] Nevertheless, direct payments to farmers continued. Based on the President's statements associating soil conservation with the continuation of a national recovery, and the public's assiduous concern for the continuation of a national recovery, the Soil Conservation and Domestic Allotment Act paid farmers for voluntarily substituting soil-conserving crops and rebuilding practices for soil-depleting commercial crops.[9]

New farm legislation was again passed in 1938, which has become the model for all subsequent farm price support legislation.[10] The Agricultural Adjustment Act of 1938 provided for non-recourse loans at flexible support rates and direct payments in amounts that would produce a return as near as possible to parity prices and parity income.[11] The 1938 Act also mandated non-recourse price support loans for the systematic storage of certain non-perishable commodities in an effort to provide for the return of the commodities to the marketplace in time of need—the "every normal granary" plan.[12]

Federal Direct Price Support Payment Programs in the 1940's

One of the direct effects of the 1938 Act was a decrease in production. With the outbreak of World War II the focus shifted from increasing income and decreasing production to increasing production. Congress amended the 1938 Act with the emphasis shifting from limiting production to encouraging farmers to expand their output.[13] This was effectuated by increasing price supports. And price supports continued to increase until Congress passed the Agricultural Act of 1949.[14]

The Agricultural Act of 1949 provided a comprehensive long-range fed-

5. Agricultural Adjustment Act, Pub. L. No. 73-10, § 8(1), 48 Stat. 31, 34 (1933).
6. United States v. Butler, 297 U.S. 1 (1936).
7. Soil Conservation and Domestic Allotment Act, Pub. L. No. 74-461, 49 Stat. 1148 (1936).
8. Rasmussen, *supra* note 3, at 358.
9. Soil Conservation and Domestic Allotment Act, Pub. L. No. 74-461, § 8(b), 49 Stat. 1148, 1150 (1936).
10. Agricultural Adjustment Act of 1938, Pub. L. No. 75-430, 52 Stat. 31.
11. *Id.* at § 302, 52 Stat. at 43. If at the completion of the loan term, the market price of the crop given as assurance is below the loan level, the producer may default on the loan without personal liability exposure for the variance between the market value of the crop and the total loan amount. M. BENEDICT, *supra* note 4, at 332.
12. Harkin & Harkin, *"Roosevelt to Reagan" Commodity Programs and the Agriculture and Food Act of 1981*, 31 DRAKE L. REV. 499, 501 (1981-82).
13. Joint Resolution of May 26, 1941, Pub. L. No. 77-74, 55 Stat, 203; Act of July 1, 1941, Pub. L. No. 77-147, 55 Stat. 498.
14. Agricultural Act of 1949, Pub. L. No. 81-439, 63 Stat. 1051.

eral price support program which laid the foundation for the permanency of government price support policy by authorizing or requiring by law, the price support of various commodities through loans, purchases, or payments.[15] These methods, coupled with new price support innovations that have since been added, have continued to provide federal direct price support to the present.

The 1949 Act also established a contrastive manner for calculating the parity index,[16] and established the difference between basic and non-basic agricultural commodities[17] in order to ensure a favorable price support by according priority to the basic commodities.[18] The 1949 Act, however, failed to set the exact levels of price supports for the basic commodities, leaving this function to the Commodity Credit Corporation (CCC).[19] The CCC relied on factors such as perishability and the ability and willingness of producers to control the supply to most effectively meet the demand.[20] According, basic commodities were supported at a level no more than ninety percent of parity and non-basic commodities were supported at levels ranging between sixty percent and ninety percent of the parity.[21]

Federal Direct Price Support Payment Programs in the 1950's and 1960's

The Agricultural Act of 1949, for the most part, remained intact throughout the 1950's. There were, however, several new programs implemented. New programs included marketing quotas,[22] the Agricultural Trade Development and Assistance Act,[23] and the Soil Bank Act.[24]

Based on oversupply and waning competitiveness in world markets, the Agricultural Act of 1961[25] established a one-year program in an effort to reduce production.[26] Even though the program was voluntary, sufficiently gen-

15. *Id.* at §§ 101, 201, 63 Stat. 1052-53. The commodities currently supported by federal statutes include wheat, corn, peanuts, rice, upland and extra long staple cotton, tobacco, honey, wool and mohair, rye, barley, sorghum, flax, soybeans, gum naval stores (resin), sugarbeets, sugar cane, and milk and its products. 7 C.F.R. §§ 1421, 1422, 1427, 1430, 1434, 1435, 1438, 1443, 1446, 1464, 1468, 1472 (1985).

16. Calculation was now to be based on the most recent 10-year period rather than the period from 1910-1914. ECON., STAT. & COOP. SERV., U.S. DEP'T OF AGRIC., AGRIC. INFO BULL. NO. 424, *Price Support and Adjustment Programs From 1933 Through 1978* 17 (1979).

17. Basic agricultural commodities included corn, cotton, wheat, tobacco, peanuts, and rice. All other commodities were considered non-basic. Agricultural Act of 1949, Pub. L. No. 81-439, § 408(c), (d), 63 Stat. 1051, 1056.

18. Harkin & Harkin, *supra* note 12, at 502.

19. Commodity Credit Corporation Charter Act, Pub. L. No. 80-806, § 5, 62 Stat. 1070, 1072 (1949).

20. Agricultural Act of 1949, Pub. L. No. 81-439, § 401(b)(4)(8), 63 Stat. 1051, 1054.

21. *Id.* at §§ 101, 201, 63 Stat. at 1051-53.

22. M. BENEDICT, *supra* note 4, at 376-77. Marketing quotas regulate production and marketing of commodities as supplies exceeded demands. *Id.*

23. The Agricultural Trade Development and Assistance Act of 1954, Pub. L. No. 83-480, 68 Stat. 454, was passed in an effort to assist in the distribution of excess commodities overseas.

24. The Soil Bank Act, Pub. L. No. 84-540, 70 Stat. 188 (1956), diverted acreage for basic commodities.

25. Agricultural Act of 1961, Pub. L. No. 87-128, 75 Stat. 294.

26. *Id.* at § 121, 75 Stat. at 296. The additional purposes of the 1961 Act included improving and protecting farm prices and income; increasing farmer participation in the development of farm

erous direct payments replaced price supports and marked a change in the support of farm incomes, laying the foundation for some of the principal innovations of the agricultural legislation in the 1970's.[27]

Federal Direct Price Support Payment Programs in the 1970's

Agricultural legislation in the 1970's continued prior programs but also introduced several new innovations. The Agricultural Act of 1970[28] allowed individual farmers greater flexibility in planning their own production, and addressed problems of overproduction with the concept of set-asides.[29] Producers of certain commodities,[30] in order to receive support, were obligated to 'set-aside' a percentage of their land out of production, while at the same time maintain their usual acreage in conserving uses. The remainder of a producer's acreage could be consigned to any crop of choice, with certain exceptions.[31] The focus was distinctly market oriented.

Three short years later the economic situation had changed markedly, and its effect on the Agricultural and Consumer Protection Act of 1973[32] was apparent. Due to deficits in food production in many parts of the world, the demand for food worldwide was boundless with huge purchases and orders from countries abroad on the increase.[33] The focus naturally shifted from excess supply to excess demand, providing the basis for encouraging the expansion of agricultural production. Farm prices soared to record heights and record incomes followed[34] as producers planted "fence row to fence row."[35]

Another significant innovation appertaining to the 1973 Act was the concept of target prices, directed at the alleged flaw in the 1970 Act which continued to guarantee payments even when the market prices were high.[36] The new target price concept involved setting a guaranteed or target price for commodities based on fair market price.[37] If the market price remained at or above the target price, no price support payments were made.[38] Only when market prices or loan levels fell below the established target price were government

programs; adjusting supplies of agricultural commodities in line with their requirements; improving distribution and expansion of exports of commodities; liberalizing and extending farm credit services; and protecting the interests of consumers. *Id.* at § 2, 75 Stat. at 294.

27. Harkin & Harkin, *supra* note 12, at 505.

28. Agricultural Act of 1970, Pub. L. No. 91-524, 84 Stat. 1358.

29. *Id.* at § 402, 84 Stat. at 1362-63.

30. Wheat, feed grains and cotton. *Id.* at §§ 402, 501, 601, 84 Stat. at 1363, 1369, 1376.

31. Rasmussen, *supra* note 3, at 362. The Secretary of Agriculture was authorized to limit the acreage planted on a farm to such percentage as determined necessary to provide an orderly transition to the set-aside program. Agricultural Act of 1970, Pub. L. No. 91-524, §§ 402, 501, 84 Stat. 1358, 1363, 1369.

32. Agricultural and Consumer Protection Act of 1973, Pub. L. No. 93-86, 87 Stat. 221.

33. W. COCHRANE & M. RYAN, AMERICAN FARM POLICY, 1948-1973 279-80 (1976).

34. Net farm income averaged $13.5 billion from 1965-1971. Net farm income was $33 billion in 1973. U.S. DEP'T. OF AGRIC., AGRICULTURAL STATISTICS 416 (1980).

35. Harkin & Harkin, *supra* note 12, at 507.

36. Coffman, *Target Prices, Deficiency Payments and the Agriculture and Consumer Protection Act of 1973*, 50 N.D.L. REV. 299, 305 (1973).

37. *Id.*

38. *Id.* at 307.

payments made.[39] The reasoning behind the target price concept was that if the government was inaccurate in their estimations of the market price, or through its own actions affected the production of commodities, the burden should fall on the government in the form of deficiency payments rather than on the producer who was compelled to depend on the prices the government established.[40]

Target prices were not established using the parity formula. Instead they were set in relation to market prices and attuned by a procedure which took into account both changes in the cost of production and changes in yield due to increased productivity.[41] In order to calculate target price payments, an individual farm program acreage and program yield had to be established.[42] This was effectuated by the Secretary of Agriculture's announcement of a national program acreage.[43] Direct payments were made equal to the target price less the greater of the average market price or the loan and purchase price multiplied by the farm program acreage and by the farm program yield.[44] This resulted in direct payments which made up the difference between the average market or sale price and the established target price.

The 1973 Act also provided for direct disaster payments to producers who were precluded from planting, or who suffered losses after planting, as a result of natural catastrophe or conditions beyond their control.[45] If a producer was prevented from planting, or harvested less than two-thirds of the average yield realized, the producer was paid either the deficiency payment, or one-third of the target price, whichever was higher, regardless of whether the market price was considerably lower than, or in excess of the target price.[46] The ability to make equitable adjustments while providing the disaster payments was conferred upon the Secretary of Agriculture,[47] and the payments themselves, in essence, provided a type of crop insurance[48] to uninsurable producers.[49]

The 1973 Act put limits on the amount of deficiency payments and the amount of disaster payments a producer could receive. The disaster payments were limited to $20,000 for each crop in each crop year above the limit each producer was eligible for in direct deficiency payments for undamaged crops.[50]

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39. *Id.* at 305.

40. *Id.*

41. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, §§ 8, 18, 20, 87 Stat. 221, 225, 230-31, 233-34.

42. 7 U.S.C. § 1444d(c)(3)(d) (1982). The farm program yield is based on the individual farm's yield the previous year. 7 U.S.C. § 1444d(d) (1982).

43. 7 U.S.C. § 1444d(c)(1) (1982).

44. 7 U.S.C. § 1444d(b)(1)(A) (1982).

45. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, §§ 8, 18, 20, 87 Stat. 221, 225, 231, 234.

46. *Id.*

47. 7 U.S.C. § 1444d(b)(2)(D) (1982).

48. Coffman, *supra* note 36, at 308.

49. 7 U.S.C. § 1444d(b)(2)(C) (1982).

50. Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86, § 101, 87 Stat. 221. The limits on disaster payments have since increased to $100,000. Agricultural Adjustment Act of 1980, Pub. L. No. 96-213, § 5, 94 Stat. 119, 120.

The 1973 Act imposed a $20,000 limit on the amount of deficiency payments each producer could receive for each eligible crop in each crop year, which did not include loans, purchases, disaster payments, or any other payment which was determined to represent compensation for resource adjustment or public access for recreation.[51]

The next major agricultural bill was the Food and Agricultural Act of 1977[52] which responded to several significant concerns. Soil had been depleted during the early and mid 1970's due to the "fence row to fence row" planting practices of producers. Additionally, inflation had substantially increased production costs and several successive years of bumper crops had lead to a decrease in the price of commodities.[53] Raising farm incomes was once again the primary consideration. As a result, the target price concept continued, but at increased levels.[54]

Federal Direct Price Support Payment Programs in the 1980's

The Agriculture and Food Act of 1981[55] was passed by the ninety-seventh Congress by the narrowest vote ever on a major farm bill.[56] The Agricultural Adjustment Act of 1980[57] had increased and extended disaster payment programs, and the focus of the dissention in the ninety-seventh Congress while considering the 1981 Act was directed primarily at the new levels of support for each individual commodity.[58] Essentially, the 1981 Act was an extension of the programs and provisions of the 1973 and 1977 Acts. Nevertheless, there were noticeable additions including efforts to increase the exports of American agricultural products.[59] In line with this ambition was a section of the 1981 Act which impels the Secretary of Agriculture to make direct payments to producers if an embargo is imposed on a commodity other than in association with a total embargo.[60]

The 1981 Act also created an Agricultural Export Credit Revolving Fund,[61] a standby export subsidy program,[62] and a program to enhance mar-

51. Agricultural and Consumer Protection Act of 1973, Pub. L. No. 93-86, § 101, 87 Stat. 221. The limitations on direct income assistance payments have since increased to $50,000. Agriculture and Food Act of 1981, Pub. L. No. 97-98, § 1101, 95 Stat. 1213, 1263.

52. Food and Agriculture Act of 1977, Pub. L. No. 95-113, 91 Stat. 913.

53. Rasmussen, *supra* note 3, at 363.

54. Food and Agriculture Act of 1977, Pub. L. No. 95-113, §§ 401, 501, 602, 702, 902, 91 Stat. 913, 922, 928, 935, 941, 949. Additionally, loan rates were increased, but kept at lower levels than target prices in an effort to inspire the merchantry of American agricultural products abroad. *Id.* at §§ 401, 501, 702, 91 Stat. at 922, 928, 941.

55. Agriculture and Food Act of 1981, Pub. L. No. 97-98, 95 Stat. 1213.

56. The vote was 205 to 203. 127 CONG. REC. D1608-09 (Dec. 16, 1981).

57. Agricultural Adjustment Act of 1980, Pub. L. No. 96-213, 94 Stat. 119.

58. Harken & Harkin, *supra* note 12, at 509-14.

59. Agriculture and Food Act of 1981, Pub. L. No. 97-98, §§ 1201-1216, 95 Stat. 1213, 1274-82.

60. The 1981 Act impelled the Secretary of Agriculture to either raise the loan rate to 100% of parity, make a direct payment to a producer which would constitute the difference between the market price and 100% of parity, or any combination of the two, if an embargo is imposed on a commodity other than in association with a total embargo. Harkin & Harkin, *supra* note 12, at 515 (*citing* Agriculture and Food Act of 1981, Pub. L. No. 97-98, § 1204, 95 Stat. 1213, 1276).

61. Agriculture and Food Act of 1981, Pub. L. No. 97-98, § 1201, 95 Stat. 1213, 1274-75.

62. *Id.* at § 1203, 95 Stat. at 1275.

kets abroad for American agricultural commodities.[63] Additionally, the 1981 Act allowed greater flexibility with regard to the program eligibility requirements for producers of certain commodities.[64] However, due to a Republican Senate and a fiscally conservative President, initial Agriculture Committee agreements regarding price support adjustments were eventually lowered for nearly all commodities, with target prices continuing to be linked to an inflationary factor rather than a parity foundation.[65]

Since the Agricultural Adjustment Act of 1933, many acts have been passed in an attempt to advance stability of American farmers by striving to balance the unyielding pitches in agricultural prices. In the process, the goals of agricultural price support legislation have shifted. The 1981 Act continued to promote this salient shift – from nurturing and attempting to enhance farm incomes, to simply protecting the incomes of our Nation's agricultural producers.

Administration of the Programs

The principal agency that administers the federal direct price support payment programs is the Agricultural Stabilization and Conservation Service (ASCS).[66] Established in 1961, it operates through state, county, and community committees.[67] Ordinarily, a farmer's participation in the federal price support payment programs is effectuated through the county level of the ASCS, where he or she is assisted in determining both eligibility and compliance.[68] The ASCS, like the CCC, is subject to the general supervision and direction of the Secretary of Agriculture.[69]

The Secretary of Agriculture is required to provide for price support of basic agricultural commodities[70] and several non-basic agricultural commodities.[71] However, the Secretary has broad discretion, within statutory guidelines, in setting eligibility and compliance requirements which producers must meet to receive price support payments.[72] Additionally, the Secretary of Agriculture determines the amounts of federal direct price support payment

63. *Id.* at § 1207, 95 Stat. at 1278-80.

64. *Id.* at §§ 601, 701, 95 Stat. at 1242, 1248. The 1981 Act established eligibility for all rice growers for support programs regardless of whether they had a government-sanctioned allotment, and allowed peanut producers who intended to process their crop, which is the extraction of oil for food and meal for feed uses, to grow without a government-sanctioned allotment for the first time since 1938. *Id.* at §§ 601, 701, 95 Stat. at 1242, 1248.

65. *Id.* at §§ 301, 401, 501, 601, 701, 95 Stat. 1213, 1221-22, 1227-28, 1234-36, 1242-43, 1248-50.

66. 7 C.F.R. § 713.2 (1985).

67. *Id.*

68. 7 C.F.R. § 713.4 (1985).

69. 7 U.S.C. § 2204 (1982).

70. 7 U.S.C. § 1441 (1982).

71. The non-basic commodities designated for mandatory price support include tung nuts, soybeans, honey, milk, sugarbeets, and sugar cane, 7 U.S.C. § 1446 (1982); and wool and mohair, 7 U.S.C. § 1782 (1982). Additionally, the Secretary of Agriculture, in his or her discretion, is entitled to provide price support for non-basic commodities for which support is not mandated. 7 U.S.C. § 1447 (1982).

72. 7 U.S.C. § 1421(b) (1982).

programs.[73]

Among the contingencies within the Secretary's discretion that directly affect producers involved in the federal direct price support payment programs are the setting of target prices, the declaration of a national program acreage in order to compute target price payments,[74] and a commodity oversupply determination prior to the introduction of a federal production adjustment program.[75] The payments required to induce participation in production adjustment programs are predicated on the Secretary's determination that the production of commodities is out of line with the demand, cognizant of both prices and the ability to meet certain contingencies.[76]

The Secretary of Agriculture is also authorized to increase support levels when necessary, and may, if a commodity has undesirable characteristics that depress the market value, drastically reduce the support levels.[77] All determinations made by the Secretary of Agriculture are final and conclusive if not inconsistent with the provisions of the Commodity Credit Corporation Charter Act.[78]

If a producer fails to comply with the conditions set forth for participation, the Department of Agriculture contract specifically holds that benefits can be withheld, that any payments already tendered could be required to be refunded together with interest, and that liquidated damages may be imposed.[79] Producers must furnish periodic reports to the ASCS to assist the Department of Agriculture in determining compliance with program requirements.[80] In addition, the ASCS has the authority to enter and inspect any farm to determine compliance.[81] Any producer who either precludes entry or fails to furnish reports can be denied program benefits.[82]

If there is a change in the law during the period the current Department of Agriculture contract is in effect which would materially alter its terms or conditions, the producer may be impelled to elect between acceptance of the modifications in the contract consistent with the change in law, or termination of the contract.[83]

73. *Id.*

74. 7 U.S.C. § 1444d(c)(1) (1982).

75. Federal acreage reduction programs include cropland set-aside acreage allotments, marketing quotas, and commodity acreage diversions. They may be used singularly or in coalescence with one another. J. JUERGENSMEYER & J. WADLEY, AGRICULTURAL LAW 273 (1982).

76. The Secretary of Agriculture will take into account the need for an adequate carryover to maintain reasonable and stable supplies and prices, and the ability to meet a national emergency. 7 U.S.C. § 1444d(e)(1)(A) (1982).

77. 1 AGRICULTURAL LAW 40 (J. Davidson ed. 1981).

78. 7 U.S.C. § 1429 (1982).

79. ASCS, U.S. DEP'T OF AGRIC., Contract to Participate in the 1985 Price Support and Production Adjustment Programs, 477 (9-11-84) (available at ASCS).

80. 7 C.F.R. § 718.6 (1985).

81. 7 C.F.R. § 718.3 (1985).

82. 7 C.F.R. § 718.3(C) (1985).

83. *Supra* note 79.

DISCUSSION

Ever since the enactment of the Agricultural Adjustment Act of 1933, federal price support payment programs have established some measure of stability for the agricultural community, yet innumerable problems remain which are both complex and rapidly changing. Supplies of land and water are diminishing. The rural America we once knew, abundant with small family farms, has vanished. Sustaining growth rates of income and food at home and abroad has become increasingly difficult, as has sustaining the ability of the American agricultural sector to act rather than react. As millions of human beings around the world struggle for daily survival, farmers in the world's breadbasket struggle for their economic survival.

One of the objectives of the federal direct price support payment programs is to maintain the prices received by producers, relative to market prices in general, at a relatively constant level. While a reasonable degree of price stability has been achieved from one time to another through the efforts of agricultural legislation, farm incomes have continued to vary. There are those who argue existing federal price support payment programs are of minimal benefit to farmers because they have not successfully controlled farm income.[84] While at the same time, these programs have increased the problem of oversupply and low market prices.[85] Prices supported above the market price encourage higher levels of production than the market can consume. Also, prices supported above the market price lead to decreased exports and narrow the market for American agricultural products. Direct payments, however, are not added to the price of a commodity, but go directly to the producer. Nevertheless, do the direct payments themselves contribute to the effort to reduce the inequality in farm incomes? Have the payments been utilized in an unsuccessful attempt to merely maintain production? Or have they ended up as a down or mortgage payment on land and as a result, contributed to the problem of increased land value? Clearly, with the continued increase of agricultural instability, many arduous questions and complex issues remain unresolved.

Many changes have been proposed. There are those who suggest changing the method by which target prices are established, arguing that those producers with the lowest production costs or who are nearest to the major markets benefit the most.[86] Regionalizing target prices has been advocated as a solution in an attempt to equiponderate the benefits to all.[87] There have also been suggestions to re-examine the limitations on payments, limiting payments only up to prescribed levels, or changing the direction of agricultural support to certain farmers – from larger farms which make up only twelve percent of

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84. BRANDOW, *Policy for Commercial Agriculture, 1945-71*, in A SURVEY OF AGRICULTURAL ECONOMICS LITERATURE 209, 275 (Martin ed. 1977); D. JOHNSON, *supra* note 1, at 45-48.
85. D. JOHNSON, *supra* note 1, at 42-45.
86. Federick, *Federal Price and Income Support Programs for Agriculture – Some Alternatives*, 1980-81 AGRIC. L.J. 1, 5.
87. *Id.* at 5-7.

all American farms, yet consistently show profit, to those with the greater debt-asset ratios, especially smaller family farms and ranches.[88]

Others feel more fundamental changes are necessary. They contend the majority of the pressing issues confronting American farmers today must be dealt with by a broader base of legislation than that concerned primarily or exclusively with agriculture.[89] Under this theory, energy costs, interest rates, taxes, transportation and export markets are more pressing concerns today than federal direct price support payment programs.[90]

Price support payment programs affect a range of diverse interest groups which may stiffle the direction of, and innovations in policy. The more linear the interests, the more complex, and many times, the more ineffective the legislation. Taxpayers, commodity groups, exporters, consumers, bureaucrats, conservation groups and the small family farmer are attempting to inspire and effectuate favorable agricultural legislation, and the result is often a quandry.[91] Additionally, the public's inability to fully understand the complexity of farm problems or the necessary legislation may preclude wide spread societal support which is unquestionably essential.[92]

Admittedly, the federal government has not adequately solved all of the diverse and complex problems associated with American agriculture through price support payment programs, and they will most likely continue to be the most controversial of all programs administered. The fact remains, however, that Congressional attempts to stabilize the agricultural economy by moderating the effects of shifts in farm prices through price support payment programs have been largely successful in keeping food costs to American consumers moderate. In addition, the reserves created through these agricultural programs have proved beneficial in time of need.

As Congress deliberates over a new farm bill this year, the effort to reduce the variability in farm prices and food costs must continue. Increasing economic integration, advances in technology, and the inescapable consequences of growth indicate there will continue to be rapid and unexpected changes facing American agricultural producers for years to come. Government programs, in turn, must continue to be modified, anticipating and facilitating the changing circumstances. With farm sector debt expecting to reach $600 billion by the end of the decade,[93] coupled with the tremendous increase in the present and future nutritional needs of the world, increased governmental disengagement from agricultural affairs at the present time would invariably result in adverse consequences to American agricultural producers and the hungry and needy people throughout the world.

American agricultural success in the future depends on continued gov-

88. *Id.* at 11-13.
89. Harkin & Harkin, *supra* note 12, at 516-17.
90. *Id.*
91. Note, *The Political Impasse in Farm Support Legislation*, 71 YALE L.J. 952, 977 (1962).
92. *Id.*
93. BOEHLJE, *Financial Needs of Agriculture in the Next Century*, in AGRICULTURE IN THE TWENTY-FIRST CENTURY 278, 279 (Rosenblum ed. 1983).

ernmental involvement, including the continuation of federal direct price support payment programs. The American agricultural producer should be allowed to continue to rely on governmental intervention regarding the control of costs and the management of risks. In addition, the federal government should also provide financial education and guidance to farmers in conjunction with direct price support payments. Financial management is a precursor to prosperity, and the federal government's role in attempting to enhance farmers' ability to most effectively manage their resources should be augmented.[94]

CONCLUSION

Agricultural legislation has historically been sensitive to changing circumstances. It has developed and adopted broader understanding as the years passed, and price support legislation is no exception. By guarding against production, price, and marketing uncertainty, in an attempt to minimize the risks for those involved in feeding the people of the world, federal price support legislation has afforded some measure of stability. In an effort to be fair and successful, the 1985 farm bill should remain consistent with these ideals.

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94. *See* W. LEE, M. BOEHLJE, A. NELSON & W. MURRAY, *Credit Instruments and Legal Documentation*, in AGRICULTURAL FINANCE 201, 221 (1980); W. LEE, M. BOEHLJE, A. NELSON, & W. MURRAY, *Risk Management Strategies*, in AGRICULTURAL FINANCE 226, 234 (1980); DUNCAN & HUGHES, *Preparing for the Twenty-First Century*, in AGRICULTURE IN THE TWENTY-FIRST CENTURY 269, 273-77 (Rosenblum ed. 1983); BOEHLJE, *Financial Needs of Agriculture in the Next Century*, in AGRICULTURE IN THE TWENTY-FIRST CENTURY 278, 285 (Rosenblum ed. 1983); T. FREY & R. BEHRENS, LENDING TO AGRICULTURAL ENTERPRISES 57 (1981).