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Dumping: the Beginning of the End?

Implications of the Ruling in the Brazil/US Cotton Dispute

Despite their WTO commitments to reduce trade-distorting subsidies, the European Union and the United States have used loopholes and creative accounting to continue dumping products on world markets. In the case of US cotton subsidies, the dispute settlement body of the WTO concluded that such practices hurt developing countries and are in violation of WTO rules. This landmark case gives hope to millions of impoverished cotton farmers in West Africa. And it might be the beginning of the end for US and EU dumping.

Oxfam International

MAKE TRADE FAIR

Executive Summary

Since the ministerial conference in Cancun, cotton has been a major item on the WTO negotiation agenda. The case of cotton symbolises the unfairness of current subsidy practices of the United States, as does the case of sugar for the European Union. In West Africa alone, 10 million people depend on cotton for their livelihoods. US cotton dumping, causing a sharp decline in world cotton prices, has impoverished all of these farmers.

Following a complaint by Brazil at the WTO, a dispute settlement panel has found that US cotton subsidies are contrary to WTO rules. This decision is a giant step forwards in the fight against dumping.

The WTO panel[1] found that US cotton subsidies worth $3.2 billion and export credits (for cotton and other commodities) worth $1.6 billion contravene WTO rules. This represents almost all cotton subsidies, and close to 50 per cent of all export credits used by the USA in 2002.

Export competition

The panel found that the USA used hidden export subsidies to circumvent its WTO commitment to reduce export subsidies. These subsidies are therefore contrary to WTO rules and must be removed:

- US export credits for cotton,[2] soybeans, corn, oilseed, oil products, and rice, worth $1.6 billion in 2002, constitute export subsidies.
- The Step 2 programme,[3] which amounted to $415 million, constitutes an export subsidy rather than trade-distorting domestic support.

Domestic support

The panel also ruled that US domestic support subsidies for cotton in the marketing years 1999 to 2002 had a 'significant price suppressing effect' which has caused serious prejudice to Brazil's exports. This means that the USA will have to reform its current practices.

Moreover, **the USA misreported certain programmes as 'non trade-distorting', when in fact they were trade-distorting.** Direct payments on cotton, amounting to $617 million, are not minimally trade-distorting, and therefore they cannot be classified as green-box payments. Hence they should be reclassified as trade-distorting domestic support.

These two elements of the panel´s findings on the serious prejudice caused by domestic support and the misclassification in green-box subsidies call into question whether decoupling reforms introduced by the USA and the EU have reduced trade distortions enough to comply with their Uruguay Round commitments.

Wider implications

The panel ruling will have profound political implications, which go beyond the specific case of the USA and cotton.

- The key demand of West African countries for a drastic reduction in US cotton subsidies has also been fully vindicated. This will strengthen their political case for urgent action within the current Round.
- The example of cotton proves that most subsidies currently used by the USA and the EU are damaging to developing countries. If they are serious about development, the EU and the USA must agree to improved rules that will effectively end export dumping and reduce trade distortions.
- Under current rules, with the expiry of the peace clause, all subsidies can now be challenged by developing countries in the Dispute Settlement Understanding (DSU) on the grounds of serious prejudice. While this case pertains only to cotton subsidies, the same principles could apply if developing countries were to bring similar challenges concerning other highly subsidised crops, such as soybeans or rice.
- Following the Canadian dairy panel, the EU sugar panel, and the US cotton panel, it is now legally established that developed countries failed to abide by subsidy rules that they had crafted during the Uruguay Round, which was a long-standing claim of developing countries. Hence, developing countries have won an important moral and legal victory, gaining a stronger position in multilateral negotiations.

Why the USA should implement the ruling

The USA will undoubtedly appeal against this ruling. If the appeal is lost, which is likely, the USA will be at a crossroads. It can either choose to implement the meeting in good faith or face possible trade sanctions by Brazil. However, the USA would have a lot to lose by failing to implement this ruling in a meaningful way; the likely results include the following effects:

- An overall reduction of the ambition of the Agreement on Agriculture, as developing countries and Cairns group of countries would conclude that the USA is not interested in reform.
- A lost chance to reduce EU subsidies. Non-implementation would give a signal to the EU that it can do the same with sugar or that it can continue to postpone the elimination of export subsidies.
- A lost opportunity to respond to legitimate demands made by West African countries to eliminate trade-distorting cotton subsidies. This would be a continuing source of problems for the USA at the WTO.
- A weakening of the WTO rules-based system, of which the USA is a major beneficiary.

Oxfam calls on the USA to acknowledge and remedy the trade-distorting effects of its cotton programmes by implementing the panel's ruling in a fair and expeditious way. Oxfam also urges the EU and the USA to negotiate in good faith new rules in the current WTO agricultural negotiations that would put an effective end to dumping.

1. Introduction

Since the ministerial meeting in Cancun, cotton has been a major item on the WTO's negotiations agenda. At the meeting, four West African countries demanded that US cotton subsidies be drastically reduced in the current round of negotiations. This demand elicited the support of most developed and developing countries at Cancun. The claim of West African governments was that US cotton subsidies were depressing prices, causing severe damage to export earnings and market opportunities for West African cotton.

With the release of the final cotton report in the Dispute between Brazil and the USA, a milestone has been reached. Not only is there a clear consensus among WTO members concerning the need for a drastic reduction of US cotton subsidies, but it has now been proved that current US cotton-subsidy programmes violate existing WTO rules and commitments made under the Agreement on Agriculture, and the Subsidies and Countervailing Measures (SCM) agreement signed by the USA as part of the Uruguay Round agreements.[4]

The ruling of the WTO panel will have an important impact on current US programmes, if the USA chooses to comply with its findings. It will also strengthen the case for drastic reduction of trade-distorting support for cotton in the Doha Round, as requested by West African countries in Cancun. Finally, the panel ruling will change the overall terms of the debate in the agricultural negotiations, boosting the position of those calling for radical reform of the current box system.

2. The impact of the panel's ruling on current US programmes

Export competition

Since 1994, the USA has not reserved the right to use export subsidies on cotton and several other commodities. However, the USA used other instruments such as export credits and the so-called Step 2 programmes. Both these programmes have been labelled by other WTO members as hidden export subsidies. The ruling of the cotton panel concurs with such an interpretation.

US export credit guarantee (ECG) programmes have been a focus of Doha Round negotiations because of their scale and their large subsidy component. The US credit programmes provide a system of underwriting credits extended by the private sector to foreign governments for the purchase of US agricultural commodities. Export credit guarantee programmes enable US exporters to offer more attractive financial packages to buyers than those offered by commercial institutions. Because this confers an advantage, the difference between commercial terms and those offered under ECGs is considered an export subsidy. Taken together, US export credit guarantees constitute by far the largest agricultural export credit programme in the world, with a minimum of $5.5 billion per year allocated under the 2002 Farm Bill. Over the past decade, ECGs have financed exports worth nearly $34 billion.[5]

According to Brazil's submission, US export credit guarantees constitute export subsidies, because these programmes provide credit 'at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes'. Hence, export credits on cotton, soybeans, corn, oilseed, and oil products are contrary to WTO commitments made by the USA, which did not reserve the right to use export subsidies for these products. For rice, a scheduled product, the level of export credits broke the allowed ceiling. Export credits now prohibited amount to $1.63 billion dollars or **48 per cent** of all export credit guarantees used by the USA. **The panel ruled that the US government would have to eliminate these programmes before July 2005.**

Table 1: The impact of the panel on US export credits

US export credits	Value in $bn	
	FY 2002	FY 2003
Prohibited export credits (cotton, soybeans, corn, oilseed, oil products, and rice)	1.46	1.63
As percentage of total export credits	*45.5%*	*48.1%*
Total US export credits (GSM 102, GSM 103, SCGP)	3.22	3.39

***SourceT**: Data from Brazil´s submission to the panel, http://www.mre.gov.br/portugues/ministerio/sitios_secretaria/cgc/algodao.asp*

One of the most important findings of the panel is to prohibit the Step 2 subsidy programme. This programme consists of two parts: it gives payments to bridge the difference between US prices and the world market prices to exporters as well as to domestic users of US cotton. The panel found both components of the Step 2 programme to be in violation of US commitments. It found that payments given to cotton exporters, which amounted to $415 million in 2002/2003, constituted an illegal export subsidy. Step 2 subsidies have been classified by the USA as a domestic support measure in the amber box. The panel disagrees with this classification, finding that Step 2 payments to exporters are an export subsidy, because they are contingent on the export of the product.

The panel also ruled that the payments to domestic users of US cotton provided through the Step 2 programme should be prohibited, since the payment can be given only for using US cotton. According to the panel, this constitutes an import-substitution subsidy which is prohibited under the Subsidies and Countervailing Measures agreement.

Domestic support

Domestic US subsidy programmes regarding cotton cause serious prejudice to Brazil

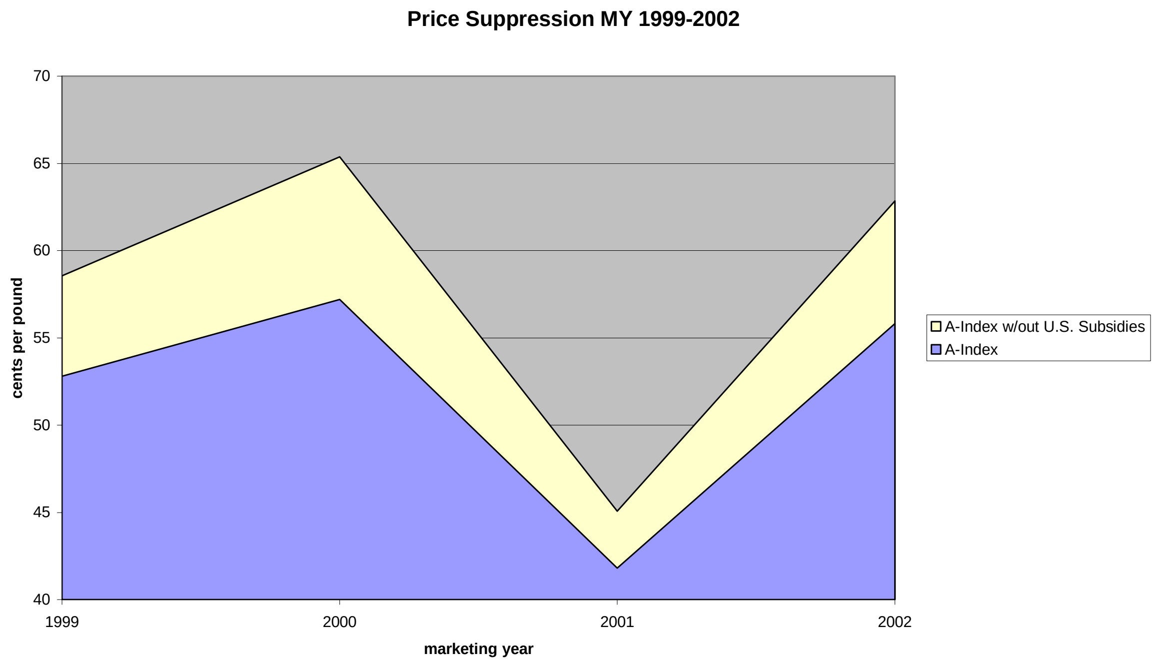
The USA reformed its subsidy programmes through the 1996 and 2002 Farm Bills. The overall intent of the reforms was to design less trade-distorting subsidies according to the model of decoupling (which means that payments to farmers are not tied to future production levels). Experience has shown, however, that the less trade-distorting effect has not materialised. As predicted by G20 countries and many NGOs, including Oxfam, these payments have isolated farmers from global market signals, allowing them to continue producing, irrespective of price levels. Other factors, including the periodical update of reference years for production levels, the impact of remaining coupled subsidies, and the sheer combined amount of subsidisation have compounded the problem. In the end, the decoupling reforms introduced by both the USA and the EU in the mid-1990s have become a smokescreen for continued dumping practices.

The USA claims that changes under the 2002 Farm Bill decoupled most of its payments from production. The 2002 Bill authorised $180 billion in farm programmes over ten years, adding $8 billion in annual agricultural support and introducing new programmes such as 'counter-cyclical payments'.

What the panel finds is that most of the instruments used by the USA in the cotton sector are still trade-distorting, in particular marketing loans,[6] market loss assistance,[7] and counter-cyclical payments,[8] and that the USA wrongly classified direct payments on cotton,[9] another type of domestic support subsidy, into the green box.

The panel judged that certain subsidies were 'specific' subsidies,[10] causing serious prejudice to Brazil's exports by suppressing world prices. Brazil is therefore entitled to the remedies under the WTO Subsidies and Countervailing Measures agreement, which regulates the use of subsidies. To comply with the ruling, **the USA will have to withdraw these subsidies entirely, or take appropriate steps to negate the adverse effects**. This means that the USA could reform the subsidies so that their trade-distorting effect is sufficiently reduced (i.e. the price-suppression effect and accompanying serious prejudice would have to disappear). The panel did not agree that the peace clause was protecting these payments from challenges, because these payments exceeded the allowed threshold.[11] The peace clause is a provision in the Agreement on Agriculture, which protects most agricultural subsidies from action under the SCM agreement. However, US subsidies exceeded the ceiling, at which point subsidies are no longer protected.

This is probably the most important issue in this case, as marketing loans and counter-cyclical payment programmes represent a sizable portion of all US subsidies. **While this case pertains only to cotton subsidies, the same principles could apply if developing countries were to bring similar cases about other highly subsidised crops, such as soybeans or rice.**



A-Index: World cotton price

Source: *Brazil's submission to the panel*
http://www.mre.gov.br/portugues/ministerio/sitios_secretaria/cgc/algodao.asp

The USA misclassified subsidies as minimally trade-distorting

Current WTO rules do not constrain the ability of WTO members to use minimally trade-distorting subsidies, for instance funding for agricultural research. Such payments, not subjected to reduction commitments, are reported by member countries to the WTO as part of the 'green box'.

One of the implications of reforms based on so-called decoupling was that the USA classified an increasing proportion of its subsidies into the green box. In 1999, the USA classified $49 billion of subsidies in this way . Other WTO members protested against the move by questioning whether these subsidies were indeed minimally trade-distorting and complying with the criteria for green-box subsidies. In 1999, the EU classified $19 billion in the green box. As part of CAP reform, the EU is planning to classify increasing amounts in direct payments into the green box. Therefore the definition of which payments can be classified as 'green box' is a key issue in the negotiations. Developing countries and the Cairns group see the current green box as a device that allows developed countries to maintain their trade-distorting support, regardless of their reduction commitments.

Table 2: Implications of the ruling on US subsidy programmes on cotton and export credits

US programmes challenged in the dispute	Total amount for 2002/2003 ($bn)	Classification notified by the USA to the WTO	Panel decision about box classification	Other panel recommend-ations[(i)]
Export credits (cotton and other commodities)[(ii)]	1.6	not notified	export subsidies	to be eliminated
Step 2 (cotton)	0.4	amber box	export subsidies	to be eliminated
Marketing loan payments (cotton)	0.9	amber box	amber box	to be eliminated
Counter-cyclical payments (cotton)	1.3	amber box	amber box	to be eliminated
Direct payments (cotton)	0.6	green box	amber box	reclassification in amber box

[(i)] Panel recommendations relative to rules on export subsidies and to the serious prejudice claim linked with the price-suppressing effect
[(ii)] Export credits for cotton, soybeans, corn, oilseed, oil products, and rice

***Source**: data from Brazil's submission to the panel and US notifications to the WTO http://www.mre.gov.br/portugues/ministerio/sitios_secretaria/cgc/algodao.asp*

The panel rules that Product Flexibility Contracts (PFC) and Direct Payments (DP)[12] for cotton did not conform to the green-box provisions. In the case of US cotton subsidies, in 2002, $617 million, or 20 per cent of all cotton subsidies, were classified under the green box. To comply with the WTO rules, green-box payments, among other conditions, should not be related to the type of production being undertaken. In the US case, Brazil argued that there are provisions that limit planting flexibility, i.e. a prohibition against planting fruits, vegetables, and wild rice on land receiving such payments. For a green-box payment to be truly decoupled, it must not restrict planting flexibility.

Because of the findings of the panel, the USA will have to reclassify its subsidies in the different domestic-support boxes. This means that the USA will either have to remove the trade-distortive elements of these programmes or reclassify them into the amber box. Some analysts think that as a result the USA might breach its ceiling on amber-box payments.

Finally, Brazil also noted that the impact of direct payments must be viewed in conjunction with other programmes: in the case of cotton the counter-cyclical payments, the marketing loan, and Step 2 programmes that are tied to production. This has been one of the long-standing claims of developing countries and civil-society groups, which have questioned the effectiveness of the WTO Agreement on Agriculture structure to tackle dumping. Because of the combined size of the subsidy programmes, fixed costs of producers are reduced so much that they merely have to cover their variable costs to make production worthwhile. So, while decoupled programmes individually may not induce increased production, the combined impact of the subsidies leads them to do so, irrespective of the specific design of particular subsidies.

3. The impact on West Africa

Cotton-producing countries in West Africa are the worst hit by current US cotton subsidies. In West Africa alone, 10 million people depend on cotton for their livelihood.

Because of high costs, technical complexities, and fear of reprisal, West African countries did not join Brazil's challenge at the WTO. However, West African countries demanded in Cancun that all trade-distorting subsidies on cotton be eliminated. This demand was supported by the great majority of WTO members. Even the EU, traditionally averse to subsidy reductions, adopted a positive attitude.

With the ruling of the panel, the claims of West Africa have been legally confirmed. The panel found that US cotton subsidies have a price-suppressing effect which caused serious prejudice to Brazil and other cotton-exporting countries. In the specific case of West Africa, the panel heard evidence brought by Benin and Chad, who were third parties in this case, about the impact of US cotton subsidies on these countries. This evidence has certainly helped the panel to reach its conclusions.

Since Cancun, the debate on cotton remains on the core negotiation agenda of the WTO, together with the negotiation of agricultural and industrial tariff frameworks and the Singapore Issues. Recent LDC and AU ministerials reaffirmed the support of developing countries for the cotton issue. The negotiation framework adopted by the General Council of the WTO in Geneva on 1 August 2004 includes the commitment to treat cotton ambitiously, specifically, and expeditiously within the agricultural negotiations. Due to political pressures by the US cotton farm lobby, the text falls short of providing a clear roadmap with specific dates and targets for the early elimination of all trade-distorting cotton subsidies.

However, the cotton panel goes much further than the July framework agreement. It calls for an elimination of most cotton subsidies by July 2005. The US government should see its implementation as an opportunity to satisfy West African demands for an elimination of trade-distorting subsidies on an 'early harvest'. This would considerably improve the standing of the USA with all African WTO members and ease the path towards the completion of the Doha Development Agenda.

If the United States failed to implement the panel's findings or to accept through negotiations an elimination of trade-distorting support on cotton, West African governments could still use the Dispute Settlement Mechanism. In fact, West African governments clearly stated, before Cancun, that they would be ready to resort to a case against US cotton subsidies if their demands were not satisfied through the negotiation process. It is clear that it would be difficult for West Africa to bring a case before the DSU, but this is a recourse that could be used if the USA is not prepared to offer a solution.

4. The impact on WTO agricultural negotiations

Even though WTO members have managed to reach agreement on a framework for a new agricultural agreement, the majority of the work still remains to be done, including very hard political decisions that need to be made to put an end to dumping once for all. This panel will certainly have an impact on upcoming negotiations, for the following reasons.

Strengthening the political position of developing countries

The main impact of the ruling will be to strengthen the hands of developing countries that are fighting for fairer rules on agricultural trade. The fact that Canada, the USA, and the EU are found to be in violation of WTO rules seriously weakens their political case during the negotiations (Canadian dairy case in 2003 and EU sugar case in July 2004). After all, why should developing countries make any concessions during the Doha Round, if it becomes clear that heavy subsidisers have failed to respect the relatively modest commitments already made in the Uruguay Round?

Some analysts predict that if a new agreement is negotiated along the lines of the EU/US proposal, the EU would not have to reform the CAP further, and the USA would be allowed to keep most of its current subsidies, which dramatically increased as a result of the 2002 Farm Act.

In this context, one possible consequence will be to strengthen the voice of those who say that no deal is better than a bad deal. However limited and imperfect, rules in the current Agreement on Agriculture could provide the basis for more successful dispute-settlement cases on highly subsidised crops. While launching dispute-settlement cases is not easy for developing countries, this might be a more attractive option for them than a meaningless new agreement on agriculture. This might also reduce the pressure for developing countries to achieve a new agreement as quickly as possible. Waiting for the full implementation of panels might be more useful in their overall political strategy to end the dumping practices of developed countries.

Renewed interest from the USA and the EU in the completion of the Doha Round

The US/Brazil cotton case and the recent panel on EU sugar subsidies might renew developed countries´ interest in re-engaging in the negotiation process.

Brazil´s victory in the cotton case has raised some anxiety that developing countries might not need a new agricultural agreement because they can resort to the DSU instead. Rather than having to face legal uncertainty linked with DSU cases, the EU and the USA could negotiate a new WTO agriculture agreement which would allow for the protection of at least a part of their current subsidy programmes.

Of course, the EU and the USA have warned developing countries against launching more challenges to their subsidies. However, if negotiations falter, it will be difficult politically to argue that developing countries should not use the Dispute Settlement System as an alternative.

Successful negotiations would represent another advantage. They could provide an opportunity for the USA to implement the ruling as part of a new agricultural agreement. In this way, the implementation of the ruling would not require separate legislation and could be included in a wider Doha Development Round, which could include major benefits for the USA, not only in agriculture but also in industrial products and services. This is how the EU implemented the oilseeds dispute ruling during the Uruguay Round.

Impact on the substance of the negotiations

Export competition

In terms of export competition, this ruling is positive news for negotiations. The Doha mandate, to which the USA agreed, calls for the elimination of all forms of export subsidies, including subsidising export credits or the commercial use of food aid.

The EU is reluctant to commit itself to a date for the elimination of export subsidies as long as the subsidy-components of US export credit programmes are not prohibited. The dispute lies in the definition and size of the export-subsidy component of US export credits. If the USA chooses to comply with the panel ruling and reform its export credits, this could leave the EU isolated in seeking to delay elimination of export subsidies.

Domestic support

In terms of domestic support, the ruling clearly shows that subsidy programmes currently used by the USA have disastrous impacts on world markets. **This should strengthen the case of those who are asking for sharp reductions of all forms of domestic subsidies and on all products**, especially the major export products of the USA such as rice, corn, soybeans, dairy products, and meat. This further discredits the US/EU proposal made before Cancun, under which the USA could keep most of its current programmes. More specifically, the ruling will have an impact on current discussions on the blue box. The USA had demanded a relaxation of its definition to allow for the reclassification of its counter-cyclical payments. ICONE, a Brazilian think-tank, estimates that the USA could use a revamped blue box to retain up to $10 billion in subsidies, if there is no agreed cap to that box. This would be a major loophole, which would also allow the USA to keep a sizable part of its cotton-subsidy programmes, as well as other subsidies.

One of the key demands from developing countries has been either a capping of payments or redefinition of criteria for green-box subsidies. The panel vindicates these countries by showing that payments currently classified under the green box are trade-distorting. **This certainly calls for a thorough review of all payments currently classified under the green box, a tightening of the criteria, or a capping of overall payments (amber, blue, and green).**

Market access

In light of the panel's finding, which confirms the disastrous impact of dumping practices, developing countries may become even more reluctant to open their markets, at least as long as dumping continues. The fact that the USA did not abide by the existing rules leaves great uncertainty about the likelihood of subsidy rules being fully respected by the EU and the USA in a new agreement. At the very least, any agreement reached should not deny developing countries the policy tools to protect their markets from floods of cheap subsidised commodities (tariffs on special products, a special safeguard, and a simple countervailing mechanism).

The peace clause

Negotiated during the Uruguay Round, the peace clause was designed to prevent WTO members from challenging subsidies that would remain after the implementation of the Agreement on Agriculture. This provided an exemption to normal WTO rules on subsidies, which allow for WTO members whose interests are damaged by subsidies of another member to seek redress under the Dispute Settlement Mechanism.

The cotton panel, which ruled that the peace clause did not protect US subsidies, shows that the peace clause is not bullet-proof. However, even though Brazil prevailed despite the peace clause, the peace clause has been a serious impediment to bringing a successful case, because it significantly raises the burden of proof on the part of the country that is a victim of subsidies. The USA significantly increased its 2001 and 2002 payments, thereby violating the peace clause. Without this blatant violation, it would have been impossible to challenge US subsidies, because they would have been protected. Moreover, this case shows that the quasi-impunity provided by the peace clause encouraged subsidising countries to cheat when self-reporting subsidies among different boxes to the WTO.

The peace clause has now expired. Its renewal was one of the demands presented in the EU/US proposal before Cancun. This panel will certainly encourage developing countries not to renew the peace clause. They should also request prompter and clearer notification of subsidies among different boxes, so that every WTO member can monitor the correct implementation of WTO rules on agriculture.

5. Conclusion: four reasons why the United States should implement the ruling of the cotton panel

The USA will undoubtedly appeal against this ruling. But the USA is at a crossroads. If the USA loses on appeal, it will be faced with a ruling that demands a deep reform of current subsidy programmes. This could encourage a dangerous faction within the US Congress, which is resisting WTO rulings on the principle of sovereignty. However, the USA would have a lot to lose if it were to refuse implementation, including:

- **An overall reduction of the ambition of the agreement on agriculture**, because developing countries and Cairns countries would conclude that the USA is not interested in reform. This would certainly reduce the level of market access that US producers could hope to get within the Round.
- **A lost chance to reduce EU subsidies**. Given that the USA wants to discipline EU subsidies, which are also subject to challenge at the DSU, non-implementation would give a signal to the EU that they could do the same.
- **A lost opportunity to respond to demands made by West African countries to eliminate trade-distorting cotton subsidies**. This initiative has put the USA in a difficult political situation at Cancun and onwards. Implementing the panel would enable the USA to reform the very same cotton-subsidy programmes to which West Africa objects.
- **A weakening of the WTO and its DSU**, which would have an adverse impact for the USA, which has been using it to assert its own rights under WTO agreements against other members. By weakening this system, the USA would risk losing the ability, for instance, to discipline practices of emerging markets such as India or China.

Oxfam calls on the USA to acknowledge and remedy the trade-distorting effects of its cotton programmes by implementing the panel´s ruling in a fair and expeditious way. Oxfam also urges the EU and the USA to negotiate in good faith new rules in the current WTO agricultural negotiations that would put an effective end to dumping.

Notes

[1] This note assumes that the final panel report in the US/Brazil cotton dispute will not be overturned if it goes into appeal.

[2] The USA scheduled export-subsidy reduction commitments in respect of 13 commodities. But it did not schedule export subsidies on cotton. The provision of export subsidies to unscheduled products or in excess of scheduled reduction-commitment levels is prohibited.

[3] The upland cotton-user marketing certificate, or ‘Step 2’ programme, is a special marketing loan provision for upland cotton. In existence since 1990, the programme provides for cash payments to eligible domestic users and exporters of eligible upland cotton when cotton prices decline below an agreed floor.

[4] The SCM agreement regulates the use of subsidies in all sectors. Provisions on subsidies in the Agreement on Agriculture are exceptions to the normal rules established in the SCM agreement.

[5] Oxfam America, 2003.

[6] Marketing loans are a short-term financing scheme, providing funds to producers to pay off their expenses, while storing their pledged harvested crop as collateral and repaying the loan when market conditions are potentially more favourable.

[7] Market loss assistance (‘MLA’) payments are *ad hoc* emergency and supplementary assistance provided to producers in order to make up for losses sustained as a result of recent low commodity prices. They have been replaced by counter-cyclical payments.

[8] CCP payments, which depend on the current prices of commodities, are based on fixed yields and base acres.

[9] The direct payments (‘DP’) programme established in 2002 provides support to producers based on historical acreage and yields for nine commodities, including cotton.

[10] Specific subsidies mean that the subsidies are given only to a specific group of farmers for a specific commodity. Specific subsidies are thought to be potentially more trade-distorting than subsidies generally available to all farmers and products.

[11] The peace clause protects domestic support from challenges under the DSU, granted that their amount does not exceed a threshold of their level in 1992. This rule was negotiated during the Uruguay Round.

[12] Production flexibility contract (‘PFC’) payments, which were replaced in 2002 by direct payments, provided support to owners or producers, based on historical acreage and yields for seven commodities, including cotton.

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