64

Oxfam Briefing Paper

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 sends hope to millions of impoverished cotton farmers in West Africa. And it might be the beginning of the end for US and EU dumping.

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MAKE TRADE FAIR

Executive Summary

Since the ministerial conference in Cancun, cotton has been a major item on the WTO negotiation agenda. Cotton symbolises the unfairness of current subsidy practices of the United States, as does 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 forward in the fight against dumping.

The WTO panel[1] found that $3.2 billion in US cotton subsidies and $1.6 billion in exports credits (for cotton and other commodities) are against 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 year 2002/03 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.** Direct payments on cotton, amounting to $617 million, are not minimally-trade distorting, 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 that 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 only pertains to cotton subsidies, the same principles could apply if developing countries were to bring similar challenges about other highly subsidised crops such as soybeans or rice.
- Following the Canadian dairy and the US cotton panels, 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. The upcoming EU sugar panel, that the EU is expected to lose, would further confirm this.

Why the USA should implement the ruling

The USA will undoubtedly appeal this ruling. If it loses in appeal, 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, including:

- An overall reduction of the ambition of the agreement on agriculture as developing and Cairns 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 they can do the same with sugar or that they 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.

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

Source: *Data from Brazil´s submission to the panel.*

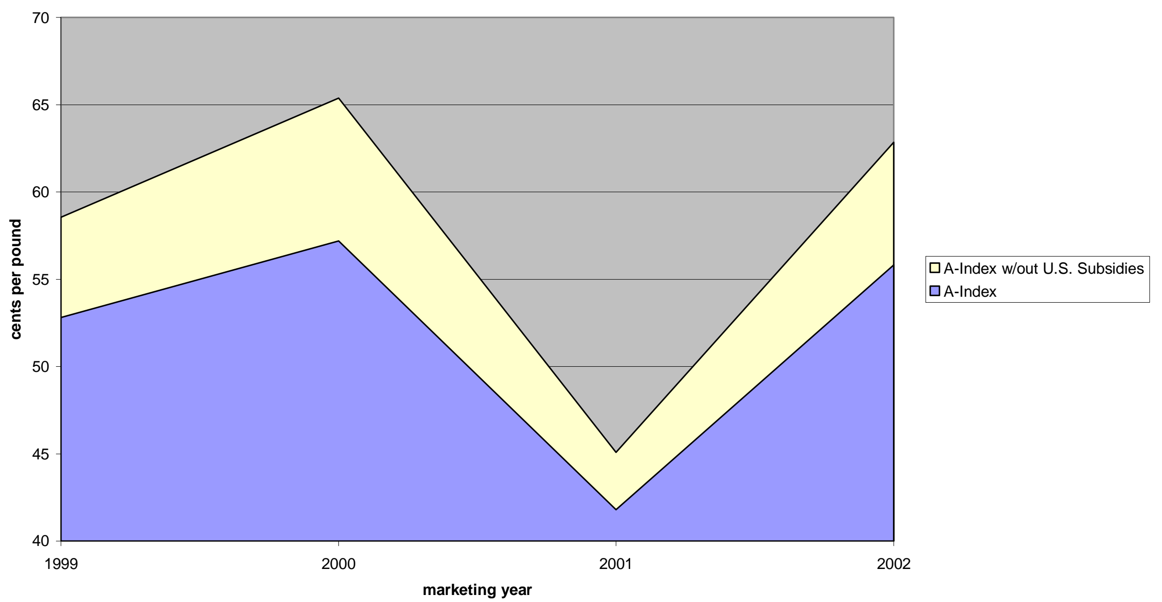
Table 2: Implications of the ruling on US subsidy programmes on cotton and export credits

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 fom Brazil´s submission to the Panel and US notifications to the WTO*



A-Index: World cotton price

Source: *Brazil submission to the DSU*

[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.