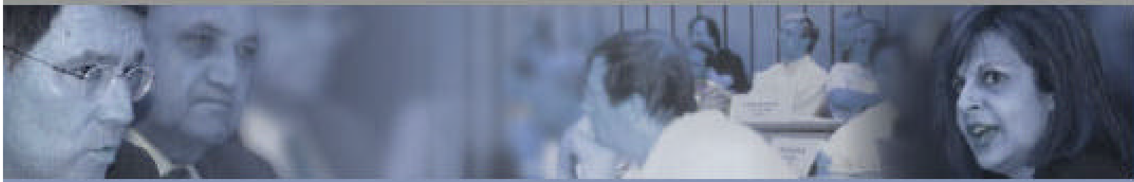

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Cotton: A Wrong Case or a Case for Equity?

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In the WTO legal jargon, a wrong case is a dispute that leads to the non-application of WTO rules and Dispute Settlement Body's (DSB) rulings. Wrong cases are appendices of States' sovereignty: sometimes the political cost of a decision to implement multilateral rules is higher than the economic cost of potential trade sanctions. Wrong cases are often associated with societal choices, e.g. the application of the precautionary principle in Europe. In Cancun, things went definitely wrong for the African countries of the cotton initiative. In the balance are, on one hand, a certain idea of agriculture, sovereignty and internal politics; and, on the other hand, a certain idea of equity and foreign policy considerations (development and political stability in Africa).

- From a legal perspective, developing countries are right to ask for the full implementation of WTO commitments (the DSB has yet to determine whether cotton subsidies granted by major trade powers are compatible or not with their commitments under the GATT, and the agreements on Subsidies (SCM) and Agriculture (URAA)).
- From an economic perspective, it also makes no sense to give Greek or Spanish cotton producers support corresponding to respectively 160 and 180 per cent of global prices (it is cheaper to pay them to do nothing).
- From a moral perspective, what societal values could justify subsidizing a few thousand Northern producers at the cost of the impoverishment of several million farmers in Africa?

So far, in the GATT/WTO history, wrong cases (i.e., cases where members have not implemented their commitments) have only involved great powers that could afford the *status quo* (e.g., on hormones, the EC could afford to be the target of sanctions and the US to apply them and to forgo the market access on beef). In the case of cotton, delays in the implementation of multilateral commitments have irreversible effects on the poorest economies and in their confidence in the multilateral trading system. This raises questions about the adequacy of the WTO framework for poor countries' initiatives and about the politics of the multilateral trading system.

The WTO, the best bet for an African initiative on cotton? Lessons from Cancun.

Lesson 1: Use the WTO as a tool to defend your interests

At the Seattle Ministerial Conference, new actors appeared on the world trade scene: developing countries and non-governmental organizations. Since then, both have acquired a new role in the negotiations, through increased transparency and participation. In Doha, developing countries' needs were put at the heart of the WTO's agenda. However, no concrete progress has been made, and commitments have not yet met the level of ambition

[*] The views expressed in this article represent the views of the author.

announced. The Derbez text on cotton illustrated this gap between expectations and results, and was rejected by African countries as not offering any basis for finding appropriate solutions to their problems. But despite this failure, the African initiative revealed that the WTO could be a good channel for amplifying the voice of the poor. Who was aware of the situation of African cotton producers before the launch of the WTO initiative? Today, nobody can ignore this situation anymore, just as nobody could ignore the issue of access to medicines in developing countries after it was put on the WTO agenda. Developing countries also confirmed that they were not only deal-takers anymore, but also intended to become deal-makers. The WTO has become a truly global organization.

Lesson 2: Moderate your expectations and be aware of what each forum can really offer you

Everyone agreed that most concerns expressed by the African countries were legitimate. Arguably, cotton deserves special attention, because of the combination of several factors: a dramatic fall in prices between 1995 and 2001, the role of cotton as a structural element of development in the Central and West Africa region; and the risk to nullify the expected benefits of adjustment efforts, efforts which have contributed to making African cotton producers amongst the most competitive (absent any trade-distortive measure) in the world. Nonetheless, the expectations of the African countries were too high, and contributed to the failure of the initiative.

Their request was twofold: (1) a total elimination of support for cotton production, and (2) financial compensation to offset Least Developed Countries' (LDCs) loss of revenue. However, most countries are still at the stage of (partial) decoupling. The E.U. or the U.S., for instance, would never agree to an elimination of "green box" subsidies. Thus, African countries should rather start by seeking a phasing-out of trade-distortive subsidies rather than all subsidies. Turning to the second pillar of the initiative, there is no such thing as "compensation" in the WTO (NB: confusion can be prompted in French-speaking countries by the use of a similar word in French language to designate compensation and countervailing measures). A WTO member can voluntarily grant compensation to another member, if this member failed to bring a measure found to be inconsistent with a covered agreement into compliance therewith or otherwise comply with recommendations and rulings of the DSB. Compensation is an alternative to the suspension of concessions by the complaining party, and consists in further concessions in other sectors by the defending party. Compensation is certainly a possible outcome of a dispute, but not of negotiations (Benin and Chad are only third parties in the dispute raised by Brazil against the U.S., and thus could not ask for compensation or take sanctions via that channel). For African cotton-producing countries, further concessions in other sectors where they have no trade interests (cotton represents around 60% of the agricultural exports and 30% of the global export earnings of these countries, and over 10 million people depend on its production) is not a satisfactory way out of the crisis. Similarly, the suspension of concessions is not helpful, as it represents a negligible threat and burden for the major trade powers, and increases the cost of imports in retaliating countries (which, in the case of Africa, are heavily dependant on imports, absent any possibility of substituting imports by domestic products).

This suggests that a priority for African countries could be to focus on the reform of the dispute settlement system (due next year) in order to create sanctions adjusted to their special needs (such as compensation and provisional measures). Additionally, in the short term, these countries could be better off seeking compensation in another forum, and rely on aid or mechanisms of stabilization. The French President has launched a study in the Bretton Woods institutions on the problem of fluctuation of commodity prices and some mechanisms already exist (e.g. Article 68 of the Cotonou Agreement, due to be revised this year) which could contribute to offsetting lost revenue from the price-depressing effect of trade-distortive measures.

Lesson 3: Carefully choose your friends and the timing of your initiatives

Trade negotiations are about reciprocity and mutual concessions. The concept of "early harvest"[1] is therefore counter-intuitive in the WTO (although it appears in the Doha Declaration). In order to reach a deal on cotton, African countries perhaps needed to facilitate negotiations and concessions in other fields. However, the Cancun Ministerial was undermined by the absence of significant compromise on major issues (on Singapore issues in developing countries, and on agriculture in the U.S.-E.U.). The WTO is in the process of learning democracy and its rules: although alliances have started to take form (G20, G90), no move has been made towards compromise, and the most "vocal" countries of each group have led others to a radicalization of their position. Probably African countries and every single WTO member will have to reconsider its alliance strategies.

Paradoxically, the Cancun Ministerial took place at a time when cotton prices were relatively high (US$0.37/lb at the lowest point in 2001 versus US$0.79/lb today). The timing of the initiative made it easier for the U.S. and some others to argue that the issue was not an immediate crisis and that longer-term solutions could be explored. However, one should not neglect two factors: the first is the depreciation of the U.S. currency, which resulted in a divergence between the curves of prices in U.S.$ and in euros or Franc CFA (used by the African countries of the cotton initiative); the second is the absence of China in the market this year. Both these factors mean that the position of African countries is not as good as it appears; if China were to flood the market next year, prices could fall again very quickly. The problem of cotton should be addressed in order to prevent another major fluctuation of prices that could irremediably harm African cotton producers.

Another illustration of the importance of timing in WTO initiatives is the progress of the Brazil v. U.S. cotton case. Brazil has missed some important procedural deadlines (for the nomination of independent experts), and the case is now focused on the coverage of the "peace clause", while this clause will expire at the end of 2003 (or a few months later, depending on the interpretation). Nothing should prevent African countries from raising a new dispute after the expiration of the "peace clause", with a real focus on the issue of subsidies.

What did go wrong for cotton? From behind the scene, considerations on realpolitik of trade.

Lesson 4: Do not neglect the role of domestic issues in the definition of trade policies

In Cancun, the U.S. was on the spot on cotton, being the leading cotton producer and exporter of the world and vastly subsidizing its producers (US$ 3.7 billion a year, i.e. 160% of Burkina Faso's GDP). However, domestic policy considerations over-rode foreign policy ones: renouncing domestic support on cotton would have been equivalent to loosing four Senators in Congress. A year before the Presidential elections, G.W. Bush could not afford such a move. The decision to block the cotton initiative was taken at the highest level, and realpolitik would lead us to be pessimistic about a significant change in the U.S. position in the short term. This, however, does not preclude a U.S. contribution to a global fund designed to assist countries suffering from fluctuations in the price of commodities. Quite paradoxically, the "trade not aid" slogan would be changed into an "aid not trade" solution.

The situation of the E.U. is trickier. Agriculture is the Achilles' heel of the E.U. Nonetheless, the E.U. is not a major producer or exporter of cotton, and its subsidies are, by comparison to

[1] « Early harvest » refers to the immediate liberalisation of certain products that is comprised in a progressive scheme of liberalisation (note of the editor).

the U.S. or China, quite limited (US$700 million a year granted to Spain and Greece). The impact of E.U. subsidies on world prices is therefore allegedly negligible. A reform of the support mechanism for cotton is under consideration (proposal by the Commission of a partial decoupling: 60% in the green box, 40% in the blue box), but will not be implemented until 2006 at the earliest. Although two countries only have interest in maintaining subsidies on cotton, some of their European partners (including France) expect to trade on this solidarity at a later stage in the context of the more painful global reform of the CAP: a compromise on a partial decoupling today is a guarantee for the application of the same principle later. From a European perspective, a sectoral initiative on cotton in the WTO had very little chance of success because it would have created a dangerous precedent, with sugar next in line. The E.U. probably also does not want to enter into a trade war with the U.S. on an agricultural issue on the eve of the expiration of the "peace clause". The E.U. will probably have enough disputes to handle next year, and a tacit prolongation of the "peace clause" between the U.S. and the E.U. would surely be appreciated. Does that mean that the E.U. cannot take, in the meantime, an initiative for cotton in Africa? Once again, solutions are under consideration, but would not consist of compensation within the WTO framework, but rather in insurance mechanisms against broad fluctuations of prices.

Lesson 5: Always do have a "plan B"

African ministers arrived in Cancun with petitions from their people directly dependent on the production of cotton. Before leaving, they promised them they would not come back without an agreement on cotton. At the end of the Ministerial, these ministers left with no deal rather than with a bad deal. This "coup d'éclat" has been a face-saver, but the taste of "victory" has quickly become bitter, when the U.S. Trade Representative publicly announced that the U.S. would not wait for the "won't do countries" to move towards trade liberalization. The Director General of the WTO confirmed that the poorest countries were the prime losers in the collapse of Cancun, being left with bilateral negotiations with developed countries where the balance of power is less even. The sanction is probably a bit harsh. It appears today that trading blocks are building up in America and in Asia (with APEC being a link between the two), leaving Africa out of major negotiations and future trade flows. The E.U. should keep that in mind while negotiating the European Partnership Agreement with ACP countries, and so should its poorest partners.

Some countries questioned whether cotton should be singled out, and argued that African countries should have joined the G20 in seeking an elimination of trade-distortive subsidies on all agricultural products. However, this was perhaps not realistic, given that these countries are largely dependent upon exports to Europe, as well as European aid and preferences. Indeed, some commentators in France strongly criticized the fact that Senegal (a traditional beneficiary of French cooperation programs) joined the G20, and interpreted it as a betrayal. Similarly, the absence of some small Central-American countries at the first Post-Cancun meeting of the G20 has been interpreted by some as the result of bilateral pressure from the U.S.

Lesson 6: Point out the link between domestic and foreign policy considerations

Technical assistance and capacity building (TACB) have been major features of the Doha round. Important efforts were made to promote participation of developing countries in trade and related negotiations, although human and technical resources remain limited within the WTO. The cotton initiative in Cancun revealed that NGOs could substitute for States or international organizations when the latter do not provide enough technical assistance. This substitution could be a partial explanation of the level of expectations of the African countries, inflated by the slogans of some NGOs. On one hand, this is a good thing, as causes supported by civil society have more chance of gaining the attention of governments.

On the other hand, this experience should be an incentive for developed countries and international organizations to increase their efforts on TACB, if they want to preserve the neutrality of information given to developing countries.

To conclude, there is not a clear-cut border between domestic and foreign policy. One should keep in mind that the development of the cotton sector in some African regions has immensely contributed to the alleviation of poverty and to the political stability of these regions. Some African countries are amongst the most competitive cotton producers in the world. Dynamic effects include the development of physical and social infrastructures: rural roads, schools, health centers, etc. In these countries, diversification of production is mostly unlikely in the short or medium term. As a result, a collapse of the cotton industry would be a serious threat for political stability in the region, with underlying potential impact on e.g. terrorism. Thus the cotton initiative is everyone's concern.