

## **Navigating the Dispute Settlement Understanding (DSU): How Benin took on the challenges in cotton?**

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My presentation will be articulated around three (3) main points which are:

- 1. Cotton: a major production for Benin and three (3) other West and Central Africa countries: Burkina Faso, Mali and Chad.**
- 2. The cotton case brought before the Dispute Settlement Body (DSB) of the WTO.**
- 3. Conclusion**

### **Introduction**

The mechanism of Dispute settlement is an important tool to monitor the implementation of international trade system rules

This instrument was not used very often by the developing countries, in particular, the least developing countries

Since few years ago, a new understanding contributed to the fact that any country can benefit from the use of this mechanism, hence the number of cases to be considered by the Dispute Settlement Body (DSB) in a situation of violation of the rules and principles contained in Agreements of the World Trade Organisation (WTO) have considerably increased.

The cotton issue is a case in point of this most recent development

### **1. Cotton: a Major Production for Benin and three (3) other West and Central Africa Countries: Burkina Faso, Mali and Chad.**

Some key facts and major figures will show that cotton is a major crop for Benin which is an LDC that Gross National Product (GNP) per capita is around U.S. \$ 300.

The issue of cotton is of critical importance for Benin. The importance of the cotton sector to Benin can hardly be overstated. It accounts for **90%** of the country' agricultural exports, **75%** of export earnings and **12%** of the Gross National Income (**GNI**).

Cotton generates at least **25%** of national revenues and plays a particularly important role in rural areas, where national poverty reaches its highest levels.

In total, more than a million people in Benin - out of a population of nearly seven million - are dependant on cotton, or cotton-related activities. It has been noted that a third of all households depend on the cultivation of cotton, and a fifth of wage-earning workers are employed in the cotton sector.

The situation is similar in the three other countries: Burkina Faso, Mali and Chad.

More than 15 million people are employed by the cotton sector, in Africa.

Cotton plays a particularly important role in rural areas, where national poverty reaches its highest levels.

Thanks to the cotton generating income that farmers can provide for themselves and their families food, health care, education for their children, improvement of housing etc...

For all these reasons, the cotton farmers in Benin region are highly vulnerable to changes in the world price of cotton. These small, subsistence farmers have no possibility to influence the international cotton market. By this way, they are more “**price takers**” than “**price makers**”.

## **2. The Cotton Case Brought Before the Dispute Settlement Body (DSB) of the WTO.**

On 27<sup>th</sup> September 2002, Brazil filed a complaint to DSB against United States of America for violation of the rules of the Agreement on Agriculture relating to subsidies and domestic support that USA provide to upland cotton. Just to have an idea, the annual amount of the US subsidies is estimated to 3.9 billion dollars, which is five times (5) the amount of the Official Development Assistance (ODA) provided each year to the developing countries

The annual loss by the 36 African cotton producers countries is around 1.2 billion dollars

During the 2004- 2005 campaign, the losses by the four countries were evaluated at 400 million dollars

So, when U.S. subsidies cause or contribute to a dramatic fall in world prices, the consequences for Africa are severe: hundreds of thousands of people are pushed from basic subsistence living to stark poverty.

Among the questions raised by Brazil was the need for the DSB panel to be put in place to indicate the level of subsidies and domestic support measures given by the US and their impact on the cotton price and market shares

Fifteen (15) countries and group of countries were third parties to this complaint, namely: Argentina, Australia, Benin, Canada, China, China Taipei, European Community, India, New Zealand, Pakistan, Paraguay, Venezuela, Japan, and Thailand.

These countries and Group of countries stressed that they have a great interest in international trade of cotton and therefore in the complaint filed by Brazil.

Benin and Chad, two African countries from west and central African region, cotton producer and exporters have, for the first time since the inception of the GATT in 1945 and WTO in 1995, decided to use the WTO Dispute Settlement.

After the hearings organised by the DSB Panel on the cotton issue both for the main concerned parties (namely Brazil: the complainant and the USA the respondent) and the third parties, the Panel came to the conclusion, in march 2005, that the subsidies and the domestic support given by the US to their producers and exporters of Upland cotton have distorted the international cotton market

Consequently, the Panel called upon the USA to eliminate:

- The subsidies granted to the cotton sector, **not later than the first of July 2005**
- Domestic support, **not later than 21st September 2005**

The USA made an appeal of this decision. The appeal procedure was therefore opened, and concluded, in June 2005, by a confirmation by the Appellate Body of the conclusions and recommendations of the panel

In order to implement the decision of the Appellate Body, the USA have indicated that they need a reasonable period of time that require the national legal procedures

The US Congress authorized, in February 2006, to put an end to the programme Step 2 with effect from 1<sup>st</sup> of August 2006.

At the end of the bilateral consultations between Brazil and USA, a Memorandum of Understanding was signed by the two parties in July 2006.

Having noticed that there is a deliberate move by the US to delay, or for that matter, not to implement fully the recommendations of the Dispute Settlement Body, Brazil introduced, in July 2006, one year after the deadline of July 2005, a second complaint against the US for not respecting the Decisions of the Appellate Body.

The Panel to consider this complaint was set up on 28 September 2006 and eight (8) countries and group of countries were third parties to the Brazilian complaint, namely: Argentina, Australia, Canada, China, India, Japan, New Zealand and the European Union.

### **3. What Lessons can be learnt from Benin's Experience**

The Permanent Mission has participated in many meetings related to the follow up of this issue which enabled it to better understand the WTO Dispute Settlement procedures.

This experience has enabled the Missions to improve the recommended consultations between Geneva and the technical structures in the Capitals

In addition, even though the Dispute Settlement procedure is arduous and sometime long, it enables countries with limited resources, such as Benin, to have their trade interests protected and preserved.

The examination of complaints brought recently before the DSB confirmed also the need for WTO Members to defend their interests on equal footing with others. This contributes to the promotion of a kind of economic democracy at multilateral level.

These are few lessons drawn from the Benin experience as a third party in the cotton case examined by the DSB.

Thank You for your attention.

