

FURTHER THIRD PARTY SUBMISSION OF BENIN
THIRD PARTY SUBMISSION OF CHAD

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I. INTRODUCTION

1. This dispute marks the first time that either Benin or Chad – two least-developed, sub-Saharan African countries – have participated in a WTO dispute. Benin and Chad have taken this unprecedented step in response to the serious threat posed to their economic and social stability by massive, WTO-inconsistent US subsidies on upland cotton.

2. As indicated below, subsidies provided by the United States to its relatively small and prosperous group of cotton farmers exceed the gross national income of Benin, Chad, and every other country in the West African region.

3. Cotton plays a critical role in the economic development of West Africa. The cotton farmers of the region are highly vulnerable to changes in the world price of cotton. These small, subsistence farmers have no ability to influence the international cotton market – they are “price takers”, not “price makers”.

4. When US 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.

II. SERIOUS PREJUDICE UNDER THE SCM AGREEMENT

5. US subsidies have caused, and are causing, adverse effects to the interests of Benin and Chad within the meaning of Article 5(c) and 6.3 of the SCM Agreement. The United States has caused, and is causing, serious prejudice to the interests of Benin and Chad through the use of WTO-inconsistent subsidies on upland cotton. The serious prejudice to the interests of Benin and Chad arises because the effect of the US subsidies has been the significant price suppression and/or price depression for cotton in the same market, within the meaning of Article 6.3(c).¹

6. Benin and Chad agree with Brazil that for the purposes of Article 6.3(c), the term “market” could encompass an individual country, a region, or the world market for cotton.² In addition, in the view of Benin and Chad, the Further Submission of Brazil has clearly established the causal link between US subsidies and suppressed prices in the world market.

7. Therefore, for the purposes of this Third Party submission, Benin and Chad accept that the causal link has been established by Brazil, and will focus instead on the impact of such suppressed prices on the economies and cotton sectors of Benin and Chad.

III. THE COTTON SECTOR IN BENIN

8. Benin’s Third Party Submission of 15 July 2003, provided the basic facts about its cotton sector. While Benin does not wish to repeat all of this information, it would recall that:

- cotton is the most important cash crop in the national economy, accounting for about 90 per cent of agricultural exports;

¹ As a threshold matter, upland cotton from Benin and Chad is clearly “like” US upland cotton within the meaning of Article 6.3. Benin and Chad agree with the analysis set out by Brazil in Part 3.3.2 of its Further Submission. Applying the tests set out in previous GATT and WTO cases, the Panel should have little difficulty in concluding that these are “like products”.

² Further Submission of Brazil, paragraph 98.

- cotton has provided 75 per cent of the country's export earnings over the past four years;
- cotton generates a quarter of the country's revenues;
- a third of all households depend on the cultivation of cotton, and a fifth of wage-earning workers are employed in the cotton sector; and
- overall, about a million people in Benin – out of a population of six million – are dependent on cotton, or cotton-related activities.

IV. THE COTTON SECTOR IN CHAD

9. Since Chad did not file an earlier submission, it takes this opportunity to provide the Panel with brief essential information about the national economy of Chad, and the cotton sector.

10. Chad, like Benin, is one of the poorest countries in the world. Of the 175 countries listed in the 2003 United Nations *Human Development Index*, Chad is ranked 165th.³ It is estimated that 80 per cent of the population of Chad lives on less than US \$1 per day. Average life expectancy is 48 years. Nearly a third of all children in Chad under the age of five suffer from chronic malnutrition.⁴

11. The cotton-producing region of Chad is located in the southern part of the country, in an area covering about 127,000 square kilometres. Cotton is generally grown on small farms, usually no more than one or two hectares. Farmers have to rely on rain for irrigation and animals for traction when working the cotton fields during the sowing season.

12. Cotton production in Chad affects approximately 1.5 million people, out of a total population of about 8.1 million.⁵ Cotton exports account for 5.1 per cent of GDP in Chad, and represents 25 per cent of all exports.⁶ Cotton is therefore one of Chad's main sources of income, and sustains the livelihood of a large portion of its population.

13. A recent World Bank report on the cotton sector in Chad stated that:

“Revenue from cotton constitutes the only source of community development for villages in the cotton-producing area to meet their needs and improve their quality of life [original emphasis]....[C]otton payments are received in two ways: as individual lump sums and as rebates/ balances (restourne), depending on the realized level of prices internationally [emphasis added]. Rebates constitute the only source farmers have to invest in village-level public goods such as schools, health centres, credit

³ *Human Development Report 2003*, United Nations Development Programme, <http://undp.org/hdr2003>.

⁴ *Chad at a Glance*, World Bank Group, 20 August 2003.

⁵ According to the World Bank, there are roughly 400,000 farm households in the cotton-producing areas of Chad, of which about 60 per cent grow cotton. An average farm household has 5 to 6 people. World Bank, *Chad Cotton Sector Reform: A Case Study on Poverty and Social Impact Analysis*. Document available at http://poverty.worldbank.org/files/13138_chadcottonreform.pdf

⁶ P. Fortucci, *The Contributions of Cotton to Economy and Food Security in Developing Countries*. Food and Agriculture Organization of the United Nations. July 2002.

institutions, storage facilities, clean water pumps and wells, *radiers* to limit village isolation during rainy season, and so forth.”⁷

14. Rather more succinctly, the World Bank observed that: “Cotton was introduced in Chad during the colonial period and has dominated the economy since then.”⁸

V. US COTTON SUBSIDIES – SERIOUS PREJUDICE TO BENIN AND CHAD

15. Brazil’s Further Submission of 9 September 2003 provides compelling evidence of the serious prejudice Brazil has sustained as a result of massive, WTO-inconsistent cotton subsidies. Yet the serious prejudice to the countries of West Africa, including Benin and Chad, has been far worse.⁹

16. The subsidies paid by the United States to its relatively prosperous 25,000 cotton farmers dwarf the economies of West Africa. As indicated in Benin’s Third Party submission of 15 July US cotton subsidies exceed the gross national income of Benin (population 6 million), as well as Chad (population 8 million).

17. US cotton subsidies also exceed the gross national income of Burkina Faso (11 million), Mali (11 million), Togo (5 million) and the Central African Republic (4 million). As the respected international NGO Oxfam noted, “no region is more seriously affected by unfair competition in world cotton markets than sub-Saharan Africa”.¹⁰

18. The Oxfam report notes that:

“Central and West African countries have suffered far graver injury than any other developing region....The crop...occupies a pivotal position in the macro-economy of many countries....[Cotton] exports are a vital source of foreign exchange, financing essential imports such as food, fuel, and new technologies. They also underpin government revenues, providing the funds needed to invest in health and education....

High levels of poverty and limited government provision of basic services make Central and West Africa acutely vulnerable to adverse trends in world prices. Falling world prices mean that farmers have less to spend on health, education, and investment. Wages for agricultural labour also decline, as does the government’s capacity to provide basic social services.

Prospects for economic growth – a key requirement for poverty reduction – have also been damaged.”¹¹

19. The Oxfam report – using data from the International Cotton Advisory Committee - estimates that in 2001 alone, sub-Saharan exporters lost \$302 million as a direct consequence of US cotton subsidies. It notes that Benin’s actual cotton export earnings in 2001/02 were \$124 million.

⁷ World Bank Report on Poverty and Social Impact Analysis – Chad Cotton Sector Reform – Ex-Ante Qualitative Analysis – First Phase. Document available at <http://poverty.worldbank.org/files>.

⁸ *Id.*

⁹ Benin and Chad also welcome, and endorse, the arguments set out in Part 7 of Brazil’s Further Submission, “Serious Prejudice to the Interests of African Countries by Reason of the US Subsidies on Upland Cotton.”

¹⁰ *Cultivating Poverty: The Impact of US Cotton Subsidies on Africa*. Oxfam Briefing Paper 30. 27 September 2002. Brazil has filed the full Oxfam report as exhibit Bra-15.

¹¹ *Id.*, pages 8-9.

However, had US subsidies been withdrawn, Benin's export earnings are estimated to have been \$157 million. Therefore, the value lost to Benin as a result of US subsidies was \$33 million.¹²

20. Chad's cotton export earnings in 2001/02 were \$63 million, although in the absence of US subsidies, Chad would have earned \$79 million, thus reflecting a loss of \$16 million.¹³

21. For the period from 1999/2000 to 2001/2002, Oxfam estimates a total cumulative loss of export earnings of \$61 million for Benin and \$28 million for Chad.¹⁴ As Oxfam rightly emphasizes, "the small size of several West African economies and their high levels of dependence on cotton inevitably magnify the adverse effects of US subsidies. For several countries, US policy has generated what can only be described as a major economic shock".¹⁵

22. Indeed, for the subsistence cotton farmers of Benin and Chad, already highly vulnerable to fluctuations in the world price of cotton, the price suppression caused by US subsidies can and does have a highly destabilizing effect. According to the empirical data analyzed by two US economists, Nicholas Minot of the International Food Policy Research Institute and Lisa Daniels of Washington College:

"A 40 per cent reduction in farm-level prices of cotton is likely to result in a reduction in rural per capita income of 7 per cent in the short-run and 5-6 per cent in the long-run. Furthermore, poverty rises 8 percentage points in the short-run, equivalent to an increase of 334 thousand in the number of individuals in families below the poverty line. In the long run, as households adjust to the new prices, the poverty rate settles down somewhat, remaining 6-7 percentage points higher than originally...."

Overall, the results in this paper challenge the stereotype of the rural poor in developing countries as consisting of subsistence farmers that are relatively unconnected to, and thus unaffected, by swings in world commodity markets. At least in the case of Benin, *to the extent that fluctuations in world cotton prices are transmitted to farmers, they will have a significant effect on rural incomes and poverty.*"¹⁶ [emphasis added]

23. Thus, as the Minot/Daniels paper indicates, a drop in world cotton prices of 40 per cent pushes an additional 334,000 people below the poverty line in Benin. Moreover, the Minot/Daniels study adopted a *relative* poverty line, equivalent to US\$123 per person per year, far below the US\$1 per day used by the World Bank.¹⁷

24. The Minot/Daniels paper describes what this means in human terms. The detailed household surveys carried out in Benin describe the living conditions for cotton farmers:

- 85 per cent of the cotton farmers in Benin have houses with mud or mud-brick walls.
- 62 per cent live in houses with a dirt floor.

¹² *Id.*, page 17-18.

¹³ *Id.*, page 17-18.

¹⁴ *Id.*, page 32.

¹⁵ *Id.*, pages 17 and 32.

¹⁶ Nicholas Minot and Lisa Daniels, *Effect of Falling Cotton Prices on Rural Poverty in Benin*. Exhibit BEN-CHA 1, paragraphs 36 and 38.

¹⁷ *Id.*, paragraph 13.

- 72 per cent have corrugated metal roofs and 28 per cent have straw roofs.
- 53 per cent of the cotton farmer households get drinking water from a public well, while another 18 per cent use water from a river or lake.
- Less than 2 per cent have electric lights, and 98 per cent use oil or kerosene lamps.
- On average, the nearest source of potable water is 430 m away, and the nearest paved road is 36 km away.
- About 34 per cent of the cotton farmers do not own a chair, 38 per cent do not own a table, and 34 per cent do not own a bed.¹⁸

25. Needless to say, farmers living in such conditions are “price takers”, not “price makers” in the global cotton market.

26. While comparable household surveys have not been conducted in Chad, conditions in Chad are, if anything, worse than in Benin. Moreover, as in Benin, the cotton farmers of Chad are highly vulnerable to changes in the international price of cotton.

27. Yet despite this situation of poverty, cotton farmers in both Benin and Chad are, and remain, efficient producers. As noted in Benin’s submission of 15 July the cost of producing cotton in West Africa is 50 per cent lower than comparable costs in the United States. Indeed, a recent World Bank Policy Research Working Paper found that West African countries were among the world’s lowest cost producers of cotton.¹⁹

28. Moreover, as Benin noted in its Submission of 15 July the IMF reported that Benin’s reform process in the cotton sector is among the most advanced in the region. However, to re-iterate a key point of Benin’s earlier submission, these economic efficiencies have been vitiated by the plunge in world cotton prices caused in no small part by US subsidies.

29. Similarly, since 1999, Chad has undertaken major reforms in its cotton production system. The aim of these reforms has been to improve production and productivity with a view to generating supplementary income, which could then be used to reduce widespread poverty in cotton-growing areas, and indeed in the country as a whole. The method for achieving this goal is a progressive liberalization of the cotton industry, similar to methods employed in other African cotton-producing countries.

30. However, as in Benin, the reforms in Chad are being seriously undermined by huge US subsidies. As stated by the World Bank:

This analysis²⁰ appears to be all the more urgent today, given the current situation on the international market and the low price of cotton deriving from the recently-introduced US subsidies. These can have the effect of thwarting the reform and of having a considerable social and poverty impact. *Unless the international situation*

¹⁸ *Id.*, paragraph 23.

¹⁹ *Cotton Sector Strategies in West and Central Africa*. World Bank Policy Research Paper 2867, July 2002, page 9. Brazil has filed this Working Paper as exhibit Bra-265.

²⁰ The report’s analysis was: “the findings ... suggest that privatisation and liberalization will not automatically lead to price competition nor will they automatically solve some of the structural problems that plague the current cotton system in Chad”.

changes and the US subsidies are removed, any liberalization and privatization of the cotton sector is unlikely to be successful. [original emphasis].²¹

31. The World Bank Policy Paper adds that:

“...subsidies to cotton farmers in major cotton producing countries increase artificially the supply in international markets and depress export prices for WCA [West and Central Africa] countries. Downward pressures on export prices have been exacerbated by generous (and in the case of the United States, rapidly increasing) subsidies for cotton production in the United States, China and the European Union.”²²

32. The Policy Paper ultimately concluded that:

“Removal of these subsidies would benefit WCA countries, and allow them to better exploit their comparative advantage in cotton production for growth and poverty reduction.”²³

VI. CONCLUSION

33. On 10 June 2003, the President of Burkina Faso, H.E. Blaise Compaoré, presented the joint proposal on cotton to the Trade Negotiations Committee on behalf of Benin, Burkina Faso, Chad and Mali.²⁴ In presenting the proposal, President Compaoré remarked that:

“More than ten millions of people in West and Central Africa directly depend on cotton production, and several other millions of people are indirectly affected by the distortion of world market prices due to production and export subsidies to this agricultural product....

While cotton accounts for only a small portion of economic activity in industrialized countries, in all our States, it represents a determining and critical factor for poverty reduction policies as well as for political and social stability. Through induced effects on infrastructure development, education and basic health services, cotton production acts as an essential link within our countries’ development strategies....

Arguments in favour of sector-based modalities for cotton are straightforward: *our countries are not asking for charity, neither are we requesting preferential treatment or additional aid. We solely demand that, in conformity with WTO basic principles, the free market rule be applied. Our producers are ready to face competition on the world cotton market – under the condition that it is not distorted by subsidies.*”²⁵
[emphasis added]

34. Similar remarks were made following the Cancun Ministerial by Dr. Kipkorir Aly Azad Rana, a Deputy Director-General of the WTO. Speaking to the Second East African Business Summit in Kenya (18-21 September 2003), he stated that:

²¹ World Bank Report on *Poverty and Social Impact Analysis – Chad Cotton Sector Reform – Ex-Ante Qualitative Analysis – First Phase*. *Op cit.*, page 35.

²² *Cotton Sector Strategies in West and Central Africa*. World Bank Policy Research Paper 2867, July 2002.

²³ *Id.*

²⁴ *Poverty Reduction: Sectoral Initiative in Favour of Cotton*. WT/MIN(03)/W/2.

²⁵ WTO News: Address by President Blaise Compaoré to the Trade Negotiations Committee, 10 June 2003. www.wto.org.

"A strong call for action in addressing subsidy issues in cotton was made earlier this year by Benin, Burkina Faso, Mali and Chad...West African negotiators put the spotlight, before and at Cancún, on cotton subsidies leading to overproduction by less efficient farmers in rich countries and depressing global market prices....The countries who brought this issue to the table do not have a broad range of export possibilities to choose from, but in cotton, they produce high quality merchandise at competitive prices. In recognition of the benefits of export-led growth for development, they have turned, at the highest level, to the WTO. *They do not ask for aid, which is the World Bank's remit, nor do they make political appeals that belong to the United Nations. They have just asked that WTO rules and disciplines apply also in sectors of interest to the poor - that a fair and market-oriented system be established in agriculture and that rich countries' wasteful export and production subsidies be abolished and cease to undermine their comparative advantage.*"²⁶
[emphasis added]

35. Both President Compaoré and Deputy Director General Rana were speaking about WTO negotiations, not dispute settlement. Yet their messages are equally valid for the purposes of this Panel proceeding. In this dispute, Benin and Chad are not seeking charity or preferential treatment. Similarly, Benin and Chad do not wish to make political appeals.

36. In the context of this proceeding, Benin and Chad ask the Panel simply to find that the United States must adhere to the WTO rules and disciplines on subsidies that it accepted at the conclusion of the Uruguay Round. This includes the clear prohibition in Part III of the SCM Agreement against causing serious prejudice to the interests of other Members. US subsidies on upland cotton have demonstrably caused serious prejudice to the interests of Benin and Chad by suppressing world prices for upland cotton. The results have been devastating for West Africa.

37. Benin and Chad therefore respectfully request the Panel to grant the relief requested by Brazil in Part 9 of its Further Submission.

²⁶ WTO News: Address by Dr. Kipkorir Aly Azad Rana, Deputy Director-General to the Second East African Business Summit, "The Multilateral Trading System: Why East Africa Must Remain Engaged." 18-21 September 2003. www.wto.org.

