

IPC Roundtable Discussion

Topics in Agricultural Trade: The Cotton and Sugar Cases

Featuring: IPC Member Pedro de Camargo

Thursday, January 13, 2005
Washington, DC

On January 13, 2005, at a seminar in the IPC headquarters in Washington, DC, Pedro de Camargo discussed the cotton and sugar cases that the Brazilian government brought against the United States and the European Union respectively. De Camargo said that “in bringing the cases, Brazil only hoped to expose some of the issues that could serve as a foundation for their position in the Doha Round negotiations.” Brazil did not expect to win. He said preparing the cases helped policymakers identify which developed country policies are most damaging to Brazilian exports, and develop a solid position in the Doha Round negotiations targeted at changing the rules that are most harmful. “When bringing a case to the WTO, you always bring a one-sided interpretation of the rules without knowing exactly what the opposition will bring. If a policy hurts you, but the rules are being followed, countries must bring cases to better understand what needs to be changed.”

Roots of the Sugar Case

Sugar escaped reform completely in the Uruguay Round. De Camargo said that as a major sugar producer and exporter, the URAA left Brazil very frustrated. In developing the sugar case, Brazil was looking to find out what *could* be done to bring about reforms of the EU sugar regime under current WTO rules. When the Canada Dairy case established cross-subsidization as tantamount to an export subsidy – Brazil recognized that it could draw parallels with the European Union’s re-export of “C” sugar, and moved forward with its case. He explained that Brazil does not oppose European imports of sugar from ACP countries, but re-exporting that sugar at low, subsidized prices significantly distorts the world market, and as such must end.

Roots of the Cotton Case

De Camargo contended that the Uruguay Round Agreement on Agriculture was essentially a deal between the United States and European Union. Considerations for developing countries were peripheral. Developing countries had been frustrated by the outcome of the Uruguay Round, which they saw as a mere confirmation of the status quo in agriculture. There was no new real market access, no real decreases in subsidies, and export subsidies were still available. Developing countries felt that bringing agriculture under a rules-based framework was a positive step that would prevent additional market distortions from developed country policies than already existed.

De Camargo explained that Brazil’s initial intention was to bring a case against US soybean subsidies. Soybean exports are very important to the Brazilian economy, and the soybean market was clearly becoming increasingly distorted by US farm subsidies. “It was a clear back-step,” and according to de Camargo, Brazil thought this back-step must be challenged.

He credited a conversation with an IPC Member who had been an agricultural negotiator during the Uruguay Round. The Member explained that the Peace Clause would prevent US policies from being challenged as long as payments did not exceed 1992 levels. De Camargo remarked that he had not remembered this element of the Peace Clause and it seemed that the USDA had

not remembered this either, since it had posted the losses to Brazilian soybean farmers from US deficiency payments on its website.

It was clear that the US had breached its 1992 limit, since payments to soybean producers were zero in 1992. But then soybean prices rose, and the US was no longer making payments to soybean farmers, so the basis for the case disappeared. De Camargo remarked that he was not disappointed: “winning cases is not the goal, the goal is to make sure US policies are not distorting the market.”

Brazil then examined other commodity programs that violated the 1992 level, and decided to challenge the cotton program. The cotton case proved that United States policies were not legal under WTO rules. Countries cannot be allowed to increase their share of the world market through subsidies. “US cotton farmers do not look to the market to make decisions, but to Washington. The rest of the world’s farmers have to rely on world market prices.”

A participant in the seminar reminded de Camargo that the panel did not say that direct payments should not be in the Green Box. De Camargo disagreed. The panel ruled that the direct payments for cotton did distort trade, but that the distortion was so small relative to the Amber Box, counter-cyclical payments, and other policies, it did not cause prejudice. However, for a different product with a different distribution of support, a direct payment could be challenged.

De Camargo acknowledged that agricultural prices are cyclical, and WTO rules should make room for countries to provide safety nets for farmers. He said he wished Brazil was in a position to provide safety nets for its farmers, but “a safety net is one thing, the US cotton program is another. If one of the world’s largest and most technologically advanced cotton producers is suffering as a result of this program then the rest of the world must be even worse off.”

De Camargo claimed that the Step Two program is totally illegal and should have been challenged long ago. Loan deficiency payments are simply export subsidies. While moving toward more Green Box policies is certainly the right trend, payments categorized in the Green Box must be truly decoupled.

The reaction to the sugar case in the European Union was very different from the reaction to the cotton case in the United States

De Camargo expressed confidence that the European Union would abide by the panel’s ruling in the sugar case. He said the European Union was well aware that sugar was distorted and recognized that reform was imminent. The sugar regime imposes high costs on European consumers, sugar had avoided any reform in the Uruguay Round, and the regime conflicted with EU commitments to developing countries under the Everything but Arms Initiative.

The US reaction to the outcome of the cotton case was completely different. He regretted that US farmers and policy makers seem to focus their energy complaining that the decision is unfair, or that Brazil will be the only beneficiary of US cotton policy reforms at the expense of the rest of the world’s cotton farmers. “The United States must face the need to modernize their farm policy.”

A participant asked, “if the appeal confirms the first panel entirely and the United States refuses to reform its cotton program, what would Brazil do in response? Retaliate? Bring additional cases?” De Camargo answered that Brazil does not have any automatic response prepared. He emphasized that he does not think Washington will refuse to comply.

He recalled that delegations from the United States have often visited Brazil to insist on improvements to Brazil’s intellectual property laws or their enforcement. He asked, “How can the United States continue to push Brazil on intellectual property if they do not change the Step Two Program?” He said that the Brazilian government is trying to develop ways to retaliate using intellectual property, but hopes this will never have to happen.

The cotton panel calls for the United States to end the Step Two program in 2005 regardless of any appeals process. That should be easy to do, and it would be good thing for the United States, particularly with the existing budget pressure. In 2006, the US cotton program must be reformed so that it is no longer damaging to Brazilian exports. However, the decision does not specify how the cotton program must be changed.

According to de Camargo, if the Doha Round negotiations really do eliminate exports subsidies – regardless of what box they are in – and maintains the ability of a countries to have safety nets for farmers and protect the environment and social systems none of this will be an issue. If the modalities are not successful and the United States starts to push its agenda, Brazil will have a problem. He added, “if the negotiations process is not successful in creating real reform, jurisprudence now exists from the cotton and sugar cases. Other countries should use that as a basis for other challenges to United States and European Union policies.”

WTO Negotiations

De Camargo emphasized that Brazil's objective is to pursue reform through the Doha Round agricultural negotiations, not to win more panels. “Cases will help to clarify the rules and establish what is up for discussion, but real policy reforms are best achieved through negotiation.”

He noted that WTO negotiators are aiming to establish negotiating modalities for agriculture at the upcoming WTO Ministerial Meeting in Hong Kong. He asserted that Brazil should not sign onto any deal that does not incorporate the panel decisions. “How can the Brazilian government say it lost in Hong Kong what it won in the cotton panel?”

He noted that it will be difficult for the 148 WTO Member Countries to come to consensus – which is what the WTO requires. “In the past, the consensus meant that the United States and European Union would come to agreement and then push their agenda.” It is hard for a developing country to fight this push. He said that, “in a consensus environment, it is often more important to create coalitions based on what you *do not* want than what you *do* want.” He said that in Cancun, the G20 was a “coalition against ‘no progress’ in agriculture.”

Developing country designation

Another participant noted that the United States has indicated its willingness to cut subsidies if market access increases – particularly in developing countries where markets are growing rapidly. Would Brazil be willing to drop its line that it is a developing country?

De Camargo asked what advantages Brazil gets from being classified a developing country? Brazilian tariffs are very low already. It does not matter to Brazil if it is classified as a developing country. It is not a Brazilian issue, but developing country classification is an important issue to other countries in the G20 – particularly India, and Brazil must partner with other countries in the G20 in order to be a big enough power to counter the United States and European Union.

Many countries are concerned about Brazil's potential to dominate world agriculture

A participant brought up the fact that many developing countries are just as worried about the potential dominance of Brazilian agriculture as they are about developed country farm programs. De Camargo responded, “it is better to compete with a Brazilian farmer than the United States Treasury.” Furthermore, Brazil's economy will grow and food consumption will increase. Brazil is a potential major consumer. It consumes more than it exports of every product except coffee.

He pointed out that until recently, Brazil had a law that prohibited farmers in the Southern part of the country – where sugar production is most efficient – from exporting. The big growth in sugar

exports was partially a result of the discontinuation of this policy. This and other government policies were “shooting Brazilian farmers in the foot.”

Biography

Pedro de Camargo has recently been appointed President of the new Brazilian Pigmeat Association. He was formerly Secretary of Production and Trade for the Brazilian Ministry of Agriculture where he was responsible for agriculture negotiations in the WTO, FTAA, MERCOSUR and other bilateral agreements. He is past Vice President and past President of Sociedade Rural Brasileira and private sector representative in the National Council for Agricultural Policy of the Ministry of Agriculture. He remains active in Mercosul, IFAP, and the Assembleia das Entidades Silvoagropecuarias do Cone Sul. De Camargo is a member of the Board of the IPC.