Oxfam Briefing Note

Oxfam International

An End to EU Sugar Dumping?

Implications of the Interim WTO Panel Ruling in the dispute against EU sugar policies brought by Brazil, Thailand, and Australia

6 August 2004

The World Trade Organisation (WTO) has taken a further step towards outlawing one of the most pernicious trade practices, that is the subsidised export dumping of surplus agricultural production by rich countries. Agricultural subsidies are the most contentious issue in ongoing WTO negotiations. For many developing countries, the unfair use of subsidies to dump surplus production in export markets symbolises the injustice of current trade rules, and the double standards of rich countries' trade policies. These practices are a particular feature of EU and US agricultural trade policies and undermine the capacity of poor producers in developing countries to benefit from trade, hampering global efforts to reduce poverty.

Following a complaint by Brazil, Thailand, and Australia, the interim ruling of a dispute settlement panel has found that EU sugar subsidies contravene WTO rules. This judgement, together with the recent ruling against US cotton subsidies,[1]

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[1] In June, the WTO panel on US cotton found that $3.2 billion of US cotton subsidies and $1.6 billion of export credits (for cotton and other commodities) contravened WTO rules.

represents a major advance in the fight against unfair agricultural subsidies and export dumping. The rulings add to growing pressure for change in EU and US agricultural trade policies which undermine the potential for poor producers in developing countries to trade on fair terms in their domestic, regional, and world markets. Oxfam has estimated that EU sugar export dumping translated into foreign exchange losses in the region of $494m for Brazil, $151m for Thailand, and $60m each for South Africa and India in 2002.[2]

What the panel found

The WTO panel's interim ruling found that the EU is dumping significant amounts of subsidised sugar – much more than it is allowed under WTO rules.[3]

In detail (Oxfam figures):

1. EU exports of around 2.7 million tonnes of what the EU claims to be *unsubsidised* sugar (so-called non-quota or 'C' sugar). The panel found that these exports are effectively *cross-subsidised* by EU support provided for the production of quota sugar. The EU is only able to export non-quota 'C' sugar at prices below the average total costs of production because the support prices for quota sugar are sufficient to cover the fixed costs of production, while world prices cover only their marginal costs.
2. The panel has also ruled that the EU is contravening its WTO commitments by subsidising the re-export of an amount equivalent to imports of sugar from the African, Caribbean, and Pacific (ACP) countries and India (1.6 million tonnes). These subsidised exports further exceed the EU's permitted level of subsidised sugar exports. Crucially, the panel ruling *does not* affect the right of the EU to import sugar from the ACP and India on preferential terms. It is now incumbent on the EU to reassure ACP countries and India that it will undertake to implement the WTO ruling in a way that protects their preferential access to the EU.[4]
3. Under WTO rules, a panel can recommend how a ruling is implemented. The sugar panel ruling specifically says that the EU should implement reforms in a way that protects preferential access for ACPs and India, and calls on the EU to 'fully respect its international commitments with respect to imports, including its commitments to ACP'. The panel cites the recent EC reform proposals (14 July 2004) in which the EC said it 'fully stands by its commitment to ACP countries and India' and that ACPs should 'keep import preferences and retain an attractive export market'.

What happens next?

The parties to the dispute now have an opportunity to review the interim panel ruling before it is released in its final form in early September 2004. It is very unlikely that there will be major changes to the final panel report. However, the EU will then have the opportunity to appeal the ruling, which could delay the final outcome until early next year. Assuming that the ruling is not overturned in appeal, the EU will have to

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[2] 'Dumping on the World', Oxfam Briefing Paper 61, April 2004, page 2.
[3] In the Uruguay Round, the EU committed to reduce its subsidised sugar exports to a maximum of just over one million tonnes a year.
[4] This note assumes that the final panel report in the EU sugar export subsidies dispute, due in early September 2004, will reflect the findings of this interim ruling, and that the final panel report will not be overturned if it goes to appeal.

change its sugar policies to reflect the findings of the WTO panel or face potential trade sanctions by Brazil, Thailand, and Australia.

Implications for EU sugar reform

The coincidence of the timing of the WTO panel ruling with the EU's domestic timetable for sugar policy reform increases pressure on the EU to implement substantive changes to its sugar regime. The question is whether the EU will prioritise the interests of the poorest countries in the world or implement reforms that continue to protect the vested interests of a few large-scale sugar farmers and processing companies. Despite the EU's claims to the contrary during the dispute, the WTO ruling does not affect the EU's right to import sugar on preferential terms; it only affects their right to export on subsidised terms an equivalent amount in excess of its reduction commitments. The impact of the panel ruling on the EU's trade with developing countries depends on how the EU chooses to implement its findings.

The European Commission's proposals for sugar reform, released earlier this month, fall far short of what will be required to bring EU sugar policies into compliance with WTO rules. In particular, they would allow for the continued production and export of non-quota 'C' sugar.[5] The WTO ruling confirms Oxfam's view that all EU sugar exports are effectively subsidised, since average EU costs of production by far exceed the price at which EU sugar can be viably exported.

More generally, from a development perspective, the Commission's sugar reform proposals would fail to end over-production and export dumping, and fail to increase imports from the poorest countries at remunerative prices. Oxfam proposes four key measures for EU reform,[6] as follows:

- drastically cut the EU production quota by around one-third or 5.2 million tonnes to end all export dumping, facilitate an increase in imports from the least developed countries, and realign domestic production with consumption;
- eliminate all direct and indirect export subsidies with immediate effect;
- implement a programme of measures including increased aid and transitional assistance for ACP countries to compensate them for the erosion of their preferential access;
- implement the reforms in a way that protects small-scale European farmers from sharp domestic adjustment costs.

Wider implications

The interim panel ruling has important political implications that go beyond the specific case of the EU and its sugar subsidies. Together with the outcome of the WTO panel on US cotton subsidies, this judgement proves that the EU and USA use agricultural subsidies in violation of their international commitments and in a way that damages developing countries. If they are serious about making the current

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[5] It is a matter for speculation as to what level of 'C' sugar will be produced under the EC's reform proposals, depending on the impact of the price and quota cuts on production decisions.

[6] Oxfam's reform proposal incorporates a recognition that price cuts will take place as part of the reform process, not least because of the likely outcome of current WTO negotiations. But it argues for deep adjustments through quota cuts and expanded market access for least-developed countries.

negotiations a 'development round', the EU and USA must agree to improved rules that will effectively end agricultural export dumping.

The outcome of both panels legally establishes that developed countries have failed to abide by subsidy rules that they crafted during the Uruguay Round, a long-standing claim of developing countries. This gives developing countries an important moral and legal victory, and should serve to strengthen their hand in the current negotiations.

It is likely that both the USA and EU will appeal the WTO rulings against their respective cotton and sugar subsidies. Assuming that both appeals will be lost, which is likely, the economic superpowers face a choice. They can either implement the rulings in good faith or face possible trade sanctions. The latter route – refusing to comply with WTO rules - would further weaken the multilateral rules-based system, of which they are major beneficiaries. Furthermore, failure to implement the rulings in a meaningful way would indicate to developing countries that the EU and USA are not interested in serious agricultural trade reform. This would undermine the current WTO negotiations.

Oxfam urges the EU to respond to the WTO panel interim ruling by agreeing to sugar reforms that end export dumping and increase access for the poorest countries at remunerative prices. **Oxfam also calls on the EU and USA to negotiate in good faith new rules in the current WTO agricultural negotiations that would put an effective end to export dumping.**