

# *The WTO Brazil Cotton Case: How Does This End?*

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# Case Timeline

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- **Sept. 2002.** Brazil requests consultations
- **Mar. 2003.** Panel established
- **Jun. 2004.** Final report issued
- **Mar. 2005.** Appellate Body report adopted
- **Aug. 2006.** Brazil requests compliance panel
- **Dec. 2007.** Compliance report issued
- **Feb. 2008.** U.S. & Brazil appeal
- **June 2008.** Appellate Body report issued
- **July 2008.** Brazil starts arbitration process
- **Aug. 2009.** Arbitration award announced
- **Apr.-June 2010.** MOU & Framework Agreement

# Why Cotton?

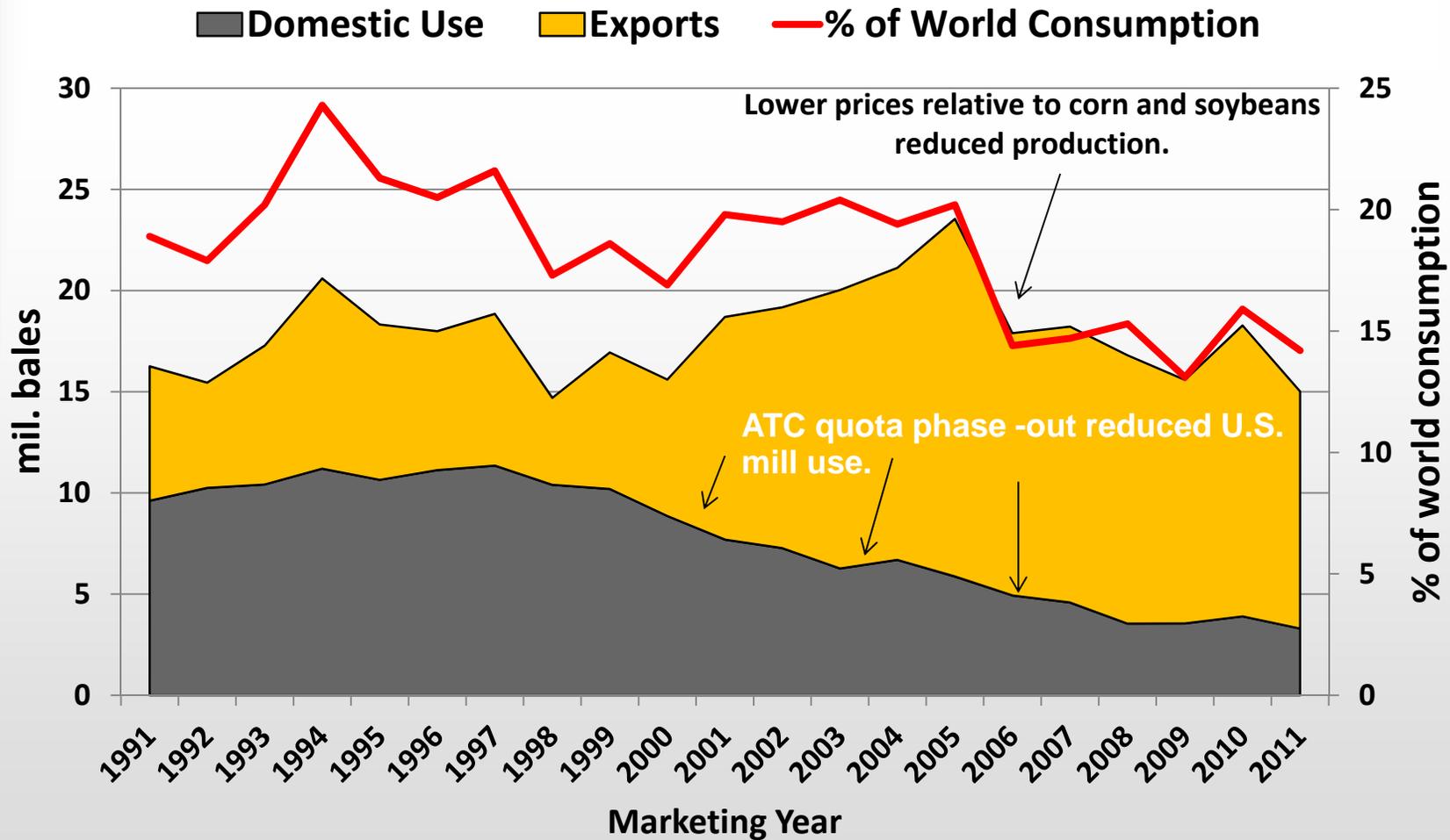
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- Starting in late 1990s falling commodity prices, increasing U.S. subsidies
- Congress passes 2002 Farm Act with new CCP
- Growing Brazil frustration over low prices, subsidies, no progress in trade negotiations
- Aimed at soybeans first
- 2001/02 cotton price collapse → Brazil switches to cotton for WTO challenge

# In retrospect, what was going on?

- China joins the WTO in 2001; unloads huge cotton stocks onto world market
- Agreement on Textiles and Clothing eliminates quotas
- U.S. textile sector continues rapid shrinkage; cotton exports take off
- Prices collapse; U.S. programs respond with huge payments

# Changes in U.S. Disappearance, 1991-2011



# Initial Panel Findings

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- Direct Payments don't meet green box criteria
- Step 2 – prohibited export subsidy and import substitution subsidy
- Marketing loans, MLA, CCPs, Step 2 caused significant price suppression (price contingent)
- PFCs, Direct Payments, crop insurance did not contribute to price suppression (not price contingent)
- Export credit guarantees are export subsidies, prohibited for cotton and non-scheduled products

# Compliance, Appeals, Arbitration

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- Step 2 eliminated; export credit programs eliminated or modified
- Compliance panel, appeal not successful for U.S.
- All steps exhausted, move to arbitration
- Brazil wins \$147.3 million for cotton (Brazil's share of global damage)
- Brazil wins \$147.4 million for GSM-102 for 2006 (changes annually with a formula)
- Brazil prepares to retaliate (goods, services, IPR)

# The process goes on and on and on...



"One reason the cotton program persists is that it has been made so arcane that it is fully understood only by the farmers who benefit and some gnomes at the Agriculture Department."

*"The Cotton Club," Wall Street Journal, October 15, 2007*

# 2010 MOU and Framework Agreement

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- U.S. pays \$147.3 million annually to cotton fund
- U.S. agrees to reform cotton subsidies in next farm bill
- U.S. agrees to limit GSM-102 use or raise fees; goal of reducing average tenor
- Brazil agrees to not retaliate

# *The Madness of Cotton*

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- ***“Thus, the absurd U.S. cotton program would dip into the Commodity Credit Corporation to pay what is a bribe to Brazil so it won’t retaliate.” Wall Street Journal, May 21, 2010***

# World Cotton Markets Have Fundamentally Changed

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- U.S. share of world production slipped from 20% to 12% in past decade
- China's price support/purchase programs are major drivers of world supply, demand, and prices
- India has become major producer and exporter
- Brazil's production and exports have grown
- Higher, more volatile world prices

# Farm Bill Push Falters

- NCC puts forward STAX, lower loan rate band to address Brazil's concerns
- Brazil accepts in principle but demands more reform to reduce distortions
- Brazil demands more reform in GSM-102 (fees, tenor)
- Short-term extension of farm bill means status quo continues but for how long?

# What Has Brazil Achieved?

- Enhanced global status in WTO, G-20
- World focus on cotton subsidies – emergence of C-4, emphasis in WTO
- Forced changes in U.S. export programs – eliminated Step 2, GSM-103, SCGP; GSM-102 tenor & fees tightened
- U.S. cotton industry forced to seek reform of support programs
- Plus, over \$400 million in cotton fund

# Have We Learned Anything?

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- WTO litigation goes in unknown directions
- Congress, Administration, and key farm groups (except NCC) pay little attention to the WTO -- do threats of retaliation matter?
- WTO criteria and public policy show big disconnect (e.g., Direct Payments)
- Movement away from decoupled support to coupled support – are insurance programs vulnerable to WTO challenge?
- Cotton case – possible farm bill resolution caught in larger issues of budget, sequestration, fiscal cliffs