Oxfam International

An End to EU Sugar Dumping?

Implications of the WTO panel ruling in the dispute against EU sugar policies brought by Brazil, Thailand, and Australia

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On 28 April 2005, the World Trade Organisation (WTO) upheld its judgment that EU sugar policies are illegal. The Appellate Body of the WTO rejected a challenge by the EU, and confirmed its verdict that EU sugar subsidies contravene WTO rules. The outcome of this case, initiated by a complaint from Brazil, Thailand, and Australia, marks a major step forward in the fight against unfair agricultural subsidies and export dumping.

The WTO panel's final ruling supports Oxfam's claim that all EU sugar exports are effectively subsidised, since EU costs of production far exceed the price at which EU sugar can be viably exported. Subsidised European exports have led to lower prices on the world market, and reduced export opportunities for other exporters. 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.[1]

Agricultural subsidies are one of the most contentious issues in the current 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. The sugar ruling, together with the recent ruling against US cotton subsidies,[2] adds to growing pressure for change in EU and US agricultural trade policies that undermine the potential for poor producers in developing countries to trade on fair terms in their domestic, regional, and world markets.

[1] 'Dumping on the World', Oxfam Briefing Paper 61, April 2004, page 2.
[2] In March 2005 the WTO panel confirmed an earlier ruling that $3.2 billion of US cotton subsidies and $1.6 billion of export credits contravened WTO rules.

The sugar ruling comes at a crucial moment, as the EU is currently reforming its sugar policy. The European Commission is due to release its legislative proposals in July 2005, a year after circulating its initial reform proposals. These will have to take account of the WTO's judgment. The question is whether EU will choose to reform its policies in a way that benefits the world's poorest countries. Developing countries are closely following the process: a development–oriented reform is seen as critical for progress in the agriculture negotiations in the Doha Development Round.

What the panel found

The WTO panel found that the EU is dumping more than three times the level of subsidised sugar exports than is allowed under WTO rules.[3]

The ruling refers particularly to two elements of EU sugar policies (Oxfam figures):

1. The export 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 cost of production, because the support prices for quota sugar are sufficient to cover all the fixed costs of production, while world prices cover only their marginal costs.
2. The subsidised re-export of an amount equivalent to imports of sugar from the African, Caribbean, and Pacific (ACP) countries and India (1.6 million tonnes). The panel has ruled that by doing this, the EU is contravening its WTO commitments. These subsidised exports were not included in the EU's reduction commitments, and 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 countries and India on preferential terms (see below).

Implications for EU sugar reform

Under WTO rules, a panel can recommend how a ruling is implemented. The sugar panel ruling suggests that the EU should 'consider measures to bring its production of sugar more into line with domestic consumption'. It also recommends that the EU should implement reforms in a way that protects preferential access for ACP countries and India, calling on the EU to 'fully respect its international commitments with respect to imports, including its commitments to developing countries'. The panel cites the EC reform proposals (14 July 2004) in which the EC said it 'fully stands by its commitments to ACP countries and India' and that with the reform of its sugar regime, the ACP countries and India will 'keep their import preferences and retain an attractive export market'.

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 reform process. But the impact of the panel ruling on the EU's trade with developing countries depends on how the EU chooses to implement the WTO's findings. The question is whether the EU will prioritise the interests of the poorest countries in the world, or implement reforms

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[3] In the Uruguay Round, the EU committed to reduce its subsidised sugar exports to a maximum of 1.3 million tonnes per year. EC exports amounted to 4.1 million tonnes in the marketing year 2000/2001.

that continue to protect the vested interests of large-scale sugar farmers and processing companies.

The current European Commission proposals for sugar reform fall far short of what will be required to bring EU sugar policies into compliance with WTO rules.[4] In particular, they would allow for the continued production and export of 'C' sugar.[5] From a development perspective, the proposals are equally inadequate: they would neither end over-production and export dumping, nor increase imports from the poorest countries at remunerative prices.

Sugar reform and development

Three groups of developing countries have a major interest in EU sugar reform:

1. A group of large and efficient exporters that competes with European exports on the world market. Among them are Brazil and Thailand, two of the complainants in the sugar case. Their primary interest is an end to European over-production and dumping.
2. The group of ACP countries and India that have (limited) preferential access to the EU market at the high internal price. These countries, many of which are high-cost producers and very dependent on the EU market, fear that their export revenues and employment opportunities will be very badly affected by EU sugar reform.
3. Sugar-producing least developed countries (LDCs). Under the 'everything but arms' (EBA) initiative, LDCs will get duty- and quota-free access to the EU from 2009. However, the value of this access will be substantially reduced if the European Commission implements before 2009 its plans to lower prices by one third. The LDCs want to attract the investment needed to develop their sugar industries on a long-term sustainable and competitive basis. This depends on them securing stable access to the EU market at remunerative prices. For this reason, the LDCs have requested a delay in the implementation of the EBA initiative, preferring a longer period of increased, but quota-limited, access at higher prices, to quota-free access at low prices.

Oxfam proposes four key measures to secure a pro-development EU sugar reform:[6]

1. Eliminate all direct and indirect export subsidies with immediate effect.
2. End the production of 'C' sugar and cut the EU production quota by around one-third to effectively end all export dumping; facilitate an increase in imports from LDCs; and realign overall supply with consumption.
3. Increase the import quota for LDCs with immediate effect, providing them with a quota that matches their export potential at remunerative prices.

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[4] In July 2004 the European Commission proposed to cut prices by 33%, and reduce quota production by 16% over three years.

[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 recognises that price cuts will take place as part of the reform process, not least because of the likely outcome of current WTO negotiations. But our proposals focus on making the necessary deep adjustments through quota cuts, and expanded market access for least developed countries.

4 Implement a programme of measures for ACP countries, including increased aid and transitional assistance, to compensate them for the erosion of their preferential access.

Oxfam's reform proposals would comply with the WTO ruling. They would also effectively end EU sugar dumping, whilst protecting the interests of both ACP countries and LDCs. A recent study by the consultancy firm LMC International concluded that a reform along these lines, compared with the current European Commission proposals, would generate an additional 145,000 permanent new jobs, attract an extra $500m in investment, and increase export earnings by €300–€400 per annum in LDCs.[7]

Oxfam's reform proposals would also protect small-scale European farmers from sharp domestic adjustment costs.

Wider implications

The outcome of the WTO 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 ruling on US cotton subsidies, this judgement proves that the EU and USA use agricultural subsidies unfairly in a way that damages developing countries. If they are serious about making the current WTO negotiations a 'development round', the EU and USA must agree to improved rules that will effectively end export dumping.

The outcome of both panels legally establishes that rich 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 WTO talks.

The EU and USA now 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 ruling by agreeing to sugar reforms that would end export dumping and increase access for the poorest countries at remunerative prices, whilst providing timely and adequate adjustment assistance for ACP countries that would be negatively affected by the reforms.

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. These must include a commitment by developed countries to:

- the early elimination of export subsidies, export credits, and the commercial use of food aid;
- deep and rapid cuts in all domestic support measures that have an effect on production and trade.

[7] LMC International (2005), *EU Sugar Reform The LDC Proposal – The Development Dimensions.* A report prepared for The LDC Sugar Group.