



Faculty of Legal Sciences

School of International Studies

**ANALYSIS OF THE DS267 CASE OF THE WORLD TRADE
ORGANIZATION BRAZIL AGAINST SUBSIDIES TO
AMERICAN COTTON, FROM THE MERCANTILIST
THEORY OF FOREIGN TRADE**

Project prior to obtaining a Bachelor's Degree in
International Studies

Author:

Steven Raúl Paguay Cabrera

Advisor:

Magister Gabriela Belén Bonilla Chumbi

Cuenca - Ecuador

2025

To my parents, who thanks to their support and unconditional love
I have been able to get this far and who have taught me that
success is not something that is achieved overnight but something
that is achieved with time and perseverance.

To my sisters, for supporting me in everything and for being the
ones who have made me smile even in hard times and for being the
ones I will always be able to trust.

To my godmother Olga, whose support has been indispensable
both for me to continue my university career and to allow me to
take advantage of opportunities that arose during this stage of my
life.

ACKNOWLEDGMENTS

I thank God for giving me the health, strength and guidance I needed to get to this point.

To my dad, Raul, who was by my side in every step of this stage and gave me his unconditional support in everything within his reach.

To my mother, Yolanda, who, despite the distance, never ceased to be present to offer me her support and affection.

To my sisters, Nayeli and Janella, for accompanying me, motivating me and reminding me that it is always worth it to keep going.

To my tutor, Gabriela Bonilla, for her guidance, patience and dedication; her constant support was key for the completion of this work.

To my tribunal, Adrián Alvarado, for his corrections, confidence and motivation, which encouraged me to give the best of me in the completion of this work.

To my best friends, Josué and Joel, with whom after long days we can forget for a while while we play games, listen to music and vent through Discord.

To my friends Camila, George, Alisson, Sofia, Vero and Monserrath, with whom I shared adventures and unforgettable memories during my exchange period and beyond, and I know they are people I will always be able to count on.

To my friends at the University, Salomé, Angie, Romina, Emily, Juan, Danna, Diana, Jessy, Angélica and Nadia, who made each class a unique, fun and memorable experience. In addition to living special moments that will always have a place in my memory.

Finally, I thank life for having allowed me to live one of the most valuable stages along with wonderful people and incomparable experiences. This road has taught me that even if we stop for a moment, we can always get going again.

TABLE OF CONTENTS

ACKNOWLEDGMENTS	ii
TABLE OF CONTENTS	iii
LIST OF FIGURES AND TABLES	iv
Index of figures	iv
Index of tables	iv
Abstract	v
Resumen	vi
1. Introduction	1
1.1 Objectives	1
1.2 Theoretical framework	1
Literature review	5
3. Methods	6
4. Results	7
4.1 Case development	7
4.2 Grant Programs and Unfulfilled Items	8
4.3 Panel and appellate body findings	10
4.4 Panel recommendations and conclusion of the case	11
5. Discussion	12
6. Conclusion	13
7. References	14

LIST OF FIGURES AND TABLES

Index of figures

Figure 1 <i>Methodology process</i>	7
Figure 2 <i>DS-267 Case Timeline</i>	8

Index of tables

Table 1 Subsidy programs and unfulfilled items	10
---	----

ANALYSIS OF THE DS267 CASE OF THE WORLD TRADE ORGANIZATION BRAZIL AGAINST SUBSIDIES TO AMERICAN COTTON, FROM THE MERCANTILIST THEORY OF FOREIGN TRADE

Abstract

This study analyzes case DS267 of the Dispute Settlement Body of the World Trade Organization, in which Brazil denounced the United States for the implementation of subsidies to its cotton industry, from the mercantilist perspective of foreign trade. The objective of this research was to determine whether the actions taken by both countries are in line with the postulates of mercantilist theory. The methodology employed was deskbased research, based on the analysis of academic sources, official reports and WTO documents. The phases of the case within the Dispute Settlement Body were identified, as well as the various U.S. subsidy programs that distorted international trade as a neo-mercantilist action, affecting cotton producers in Brazil and other developing countries. It also showed that Brazil's response, through the use of the Dispute Settlement Body, also responds to a neo-mercantilist logic of strategic defense. The study concludes that the trade practices of both countries reflect contemporary mercantilist principles, and that the case exposes both the limitations of the multilateral trading system and the need to strengthen its enforcement mechanisms to ensure fairer competition in agricultural markets.

Keywords

World Trade Organization, Brazil, United States, subsidies, world trade.

ANÁLISIS DEL CASO DS267 DE LA ORGANIZACIÓN MUNDIAL DEL COMERCIO BRASIL EN CONTRA DE LAS SUBVENCIONES AL ALGODÓN AMERICANO, DESDE LA TEORÍA MERCANTILISTA DEL COMERCIO EXTERIOR

Resumen

Este trabajo analiza el caso DS267 del Órgano de Solución de Diferencias de la Organización Mundial del Comercio, en el que Brasil denunció a Estados Unidos por la implementación de subsidios a su industria algodonera, desde la perspectiva mercantilista del comercio exterior. El objetivo de esta investigación fue determinar si las acciones emprendidas por ambos países se alinean con los postulados de la teoría mercantilista. La metodología empleada fue de tipo documental (*desk based research*), basada en el análisis de fuentes académicas, informes oficiales y documentos de la OMC. Se identificaron tanto las fases del caso dentro del Órgano de Solución de Diferencias, como los diversos programas de subsidios estadounidenses que distorsionaron el comercio internacional como una acción neomercantilista, afectando a los productores de algodón en Brasil y otros países en desarrollo. Asimismo, se evidenció que la respuesta de Brasil, mediante el uso del Órgano de Solución de Diferencias, también responde a una lógica neomercantilista de defensa estratégica. El estudio concluye que las prácticas comerciales de ambos países reflejan principios mercantilistas contemporáneos, y que el caso expone tanto las limitaciones del sistema multilateral de comercio como la necesidad de fortalecer sus mecanismos de cumplimiento para garantizar una competencia más justa en los mercados agrícolas.

Palabras clave

• Organización Mundial del Comercio, Estados Unidos, Brasil, Subsidios, Comercio Internacional

ANALYSIS OF THE DS267 CASE OF THE WORLD TRADE ORGANIZATION BRAZIL AGAINST SUBSIDIES TO AMERICAN COTTON, FROM THE MERCANTILIST THEORY OF FOREIGN TRADE.

1. Introduction

International trade is one of the main drivers of the economy, both nationally and globally. Over the years, multiple studies have been developed to understand the reasons and ways in which this economic activity evolves. Given its impact on the development of countries, it has been necessary to establish a series of regulations to govern trade in order to ensure its equity and sustainability. However, conflicts and difficulties in this area have been present since its inception, which has led to the creation of international organizations responsible for overseeing compliance with these regulations and mediating in trade disputes.

In this context, the World Trade Organization (WTO) has emerged as the key body for promoting free and fair trade. Several disputes have been brought before this organization in which countries denounce others for trade practices that violate the principles of fairness. Among these practices is the granting of subsidies to certain products, which generates unequal trade by giving competitive advantages to subsidized products over those that do not receive this type of support.

An emblematic case is DS267, in which Brazil accused the United States of generating distortions in the international cotton market through the implementation of subsidies to its cotton industry. This case is particularly relevant for the study of international trade, as it allows us to analyze the background, development and ruling issued by the WTO, as well as the reasons behind the actions taken by the United States, a country that has historically been a promoter of free trade, but has been singled out for engaging in practices that reinforce economic inequalities.

Under this premise, this research seeks to determine whether the actions taken by Brazil and the United States in the DS267 case can be explained from the postulates of the mercantilist theory of foreign trade. This theoretical approach is fundamental to understand the logic behind the implementation of subsidies and their effects on international trade, which will contribute to a deeper analysis of the coherence between the trade practices of countries and the principles they defend at the global level.

1.1 Objectives

1. Describe the background, development and conclusion of the WTO DS267 case.
2. Identify the arguments and postulates of the mercantilist theory of foreign trade.
3. Determine whether the actions taken by Brazil and the US in the WTO DS267 case are in line with the postulates of the mercantilist theory of foreign trade.

1.2 Theoretical framework

Foreign trade is one of the main engines that move the economy, both nationally and internationally, through the exchange of products and services. According to Witker (2011) foreign trade is defined as the external sector of a country's economy that regulates the exchange of products and services between consumers and suppliers in different national markets. In order to explain why foreign trade exists, several theories have been proposed over time by various authors to explain the existence of foreign trade. Among the main theories we can find the mercantilist theory, the theory of absolute advantage, the theory of comparative advantage and the theory of Heckscher and Ohlin. One of the fundamental theories for this work is the mercantilist theory. Mercantilism is one of the main theories of international trade with origin in England in the mid-sixteenth century the fundamental ideas of this theory are the importance of national interest and the wealth of the nation which revolves around the accumulation of precious metals, as well as the willingness of the state to encourage exports while restricting imports through tariff measures (Casanova Montero & Zuaznábar Morales, 2018). Although mercantilist theory has been criticized for its narrow focus on wealth accumulation, some of its principles, such as protectionism and state intervention, have influenced modern economic policies (Ocran, 2019).

Within the current interpretations of the theory of mercantilism, one of the most representative neoclassical theories of foreign trade is "neomercantilism" or neomercantilist current. This reinterpretation takes a more contemporary approach different from the accumulation of precious metals presented by classical mercantilism. According to Uzunidis & Laperche (2011), neomercantilism is characterized by the active participation of states and large multinationals in the global economy, both promoting their interest. These

actors seek to protect these interests through protectionist policies, implementing export subsidies and forming alliances between states and multinationals to increase their competitiveness in the global market. In this way we can observe a reinterpretation of the concept of mercantilism from the accumulation of wealth and power through the accumulation of precious metals to the accumulation of financial capital of the present era.

Neomercantilism has divided opinions where some see it as beneficial and others see it as detrimental. China's semiconductor industry is a clear example of a positive development of neomercantilist practices that include state intervention and the use of subsidies for this industry by the Chinese government. In addition to these strategies, it has employed other protectionist measures, including the imposition of taxes, incentives to favor domestic products, and tax exemptions or loans. Another strategy is to achieve technology exchange by forcing foreign companies seeking to enter Chinese territory to do so through *joint ventures*, which makes it easier for the Chinese company to absorb knowledge and technology from the foreign company. In this way, China's neomercantilist practices have enabled it to establish a strong presence in the global semiconductor market, despite various strategies by the United States aimed at preventing this. Nonetheless, the Chinese government has faced significant criticism for its actions (Velasco, 2024)

On the other hand, according to Cwik (2011), in his work on the neomercantilism used by China, he argues that this is not based on state intervention through subsidies but on intervention through the controlled devaluation of the Chinese currency, the yuan, in order to make exports more competitive in the international market. The author argues that such actions are inefficient and will cause long-term economic imbalance and make sectors appear to be sustainable that are not. He also adds that it hurts local consumers by making imported products more expensive due to the value of their currency.

At the end of the 18th century, Adam Smith in his acclaimed work "An Inquiry into the Nature and Causes of the Wealth of Nations" in 1776 gave rise to the Theory of Absolute Advantage. The theory of absolute advantage has as its main axis the specialization of labor, as opposed to mercantilism, for Adam Smith it was the productivity that could be generated through labor and not accumulation. Therefore, it was established that each country could specialize in that good that possesses absolute advantage, i.e. that in whose production it was much more efficient than other nations (Moreno et al., 2016). At the beginning of the 19th century David Ricardo introduced a new concept known as the Theory of Comparative Advantage, which holds that a country maintains a comparative advantage over another if the cost of production of the good in this country is lower than that of the same good in another country. So comparative advantage posits that trade can benefit two countries if each exports the goods in which it has comparative advantage (Krugman et al., 2012)

Another important theory of international trade is the Heckscher and Ohlin theory proposed in 1977. This theory explains international trade on the basis of the differences in the endowments of factors of production that each country possesses, these factors being land, labor and capital. Therefore, a country will export the good that uses a relatively abundant factor and import the good that uses a relatively scarce factor. (Blanco, 2024). In the seventies, a new theory emerged from the hands of Paul Krugman known as the New International Trade Theory, this theory arose as a response to the shortcomings that Krugman observed in previous theories. In order to correct these shortcomings, Krugman added to his theory the concept of "economies of scale", i.e. the cost of production of a good decreases as the quantity produced increases. The existence of economies of scale allows the predominance of oligopolies and monopolies in the market, making them markets of imperfect competition. Therefore, each company can differentiate its product from rivals allowing innovation and differentiation (Mayorga Sánchez & Aldana Martínez, 2008). Finally, in his book "The Competitive Advantage of Nations" (1990), Michael Porter introduces his model of national competitiveness, known as "Porter's Diamond". This model describes four key factors for a nation's success in international trade: first, factor conditions such as infrastructure and specialized human capital; second, demand conditions, which drive firms to innovate to satisfy a demanding market; third, related and supporting sectors, where a network of suppliers and related sectors strengthens efficiency and innovation; and fourth, firm strategy, structure and rivalry, where local competition stimulates continuous improvement. Porter states that national competitiveness depends on the ability to innovate and constantly improve (Porter, 1990). At present, trade is governed by a combination of several points of these theories, especially those of Porter and Krugman, taking aspects such as economies of scale, differentiation, specialization, investment in research and development for the success of companies in international trade.

In order to promote fairer and more balanced international trade after the end of World War II, the General Agreement on Tariffs and Trade (GATT) was created in 1947, which aimed to reduce tariffs and other trade barriers to promote international trade. (Organización Mundial del Comercio (OMC), 2023d)

The WTO came into being as a result of negotiations under the General Agreement on Tariffs and Trade (GATT) and in particular the Uruguay Round held during the period 1986-1994. The World Trade Organization (WTO) is an international body that acts as a forum for governments to negotiate trade agreements

and resolve disputes. Its mission is to facilitate a system of international trade rules to promote the free and secure flow of goods and services between countries, balancing trade liberalization with the protection of social and environmental interests where necessary. In addition, the WTO establishes dispute settlement procedures, ensuring that trade relations are conducted in an orderly and fair manner, with transparent and predictable rules. (World Trade Organization (WTO), 2023a) .

Among the principles that the WTO seeks to ensure are those inherited from GATT, such as Most Favored Nation, National Treatment and the Prohibition on Quantitative Restrictions. The Most Favored Nation principle established in Article I of GATT obliges the member countries of the agreement to apply any advantage or privilege granted to a country in any product to all other GATT members. The aim is to prevent preferential treatment only among certain countries, thus causing discrimination in international trade. Article III establishes the principle of National Treatment, which establishes that imported products should not be treated less favorably or differently than products of national origin in terms of taxes, regulations or other measures. This is intended to ensure that foreign goods do not face discrimination once they enter the domestic market. Finally, Article XI prohibits quantitative restrictions in the form of quotas or prohibitions on imports and exports, with the exception of specific cases such as temporary limitations to remedy shortages, restrictions on the application of quality standards, restrictions on the quantity of product circulating in the country, elimination of temporary surpluses or restrictions on the quantity produced of a good using an imported product. This principle seeks to eliminate non-tariff barriers that distort trade(GATT, 1947)

The WTO is in charge of regulating and controlling both tariff and non-tariff barriers, among the non-tariff barriers we can find different types. Among the main ones we find the already explained quantitative restrictions, as well as technical regulations and standards, conformity assessment procedures, anti-dumping duties, sanitary and phytosanitary measures. Technical regulations and standards comprise a series of specific requirements for products, processes or production methods in order to protect health, safety, environment, as well as to avoid deceptive practices. They must be applied in a manner that does not create unnecessary barriers to trade. Evaluation procedures are closely linked to the above, since they are responsible for verifying that products comply with the standards or technical regulations requested(Organización Mundial del Comercio (OMC), 1994b)

As for sanitary and phytosanitary measures, these are another non-tariff barrier, regulated by the agreement on phytosanitary measures, these are requirements whose objective is to protect the health of people, animals and plants from risks derived from food, diseases or pests(Organización Mundial del Comercio (OMC), 1994a)

Anti-dumping duties are also an important non-tariff barrier and are regulated by the Agreement on Implementation of Article VI of GATT. Dumping occurs when a product is introduced into the market of another country at a lower value than the normal value sold in its country of origin in order to be more competitive in a foreign market, which may cause injury to the importer's domestic production. In order to counteract this, anti-dumping duties are applied to counteract the dumping margin, i.e. the price difference. For the application of these duties, an investigation is necessary to demonstrate the existence of dumping, the injury to the domestic industry and the relationship between them. It is established that these duties must be temporary and applied only with in order to neutralize the effects caused by dumping and must not be used as protectionist measures(GATT, 1979)

To avoid disputes and fulfill these purposes, the WTO has what is known as the Dispute Settlement Body (DSB), in which the General Council appoints a panel to examine and seek to resolve possible disputes between members of the organization. The Dispute Settlement Body (DSB) has the authority to establish panels to resolve disputes, submit cases to arbitration, approve the reports prepared by the panels, supervise compliance with the recommendations and decisions contained in those reports, and if there is non-compliance, it can authorize the suspension of trade concessions (World Trade Organization (WTO), 2023e) .

For the resolution of disputes, the DSB follows a certain process. In the first phase of Consultations, lasting up to 60 days, the disputing countries must engage in dialogue to try to resolve their differences without formal intervention. If they fail to reach an agreement, they may request the mediation of the WTO Director General. This panel must issue its conclusions within six months (or three in urgent cases). The WTO panel procedure begins with the initial argumentation, where each party submits its arguments in writing before the first hearing. Subsequently, two hearings are held in which both parties give their arguments and have the opportunity to present rebuttals. If the case involves technical issues, the Panel may request the advice of experts to obtain a more detailed analysis. After this, the panel prepares a preliminary report which is given to the parties for comments, but does not include conclusions. This is followed by an interim report with findings and conclusions, on which the parties may request a re-examination if they deem it necessary. Finally, a final report is issued and distributed first to the parties and after three weeks to all WTO members. If the report finds

a violation, measures are recommended to bring the offending party into compliance with WTO rules. This report becomes an official DSB ruling unless it is rejected by consensus within 60 days. At any time, the parties involved have the option to appeal the final report if they believe it contains legal errors. After the Dispute Settlement Body (DSB) phases, if a country loses a dispute, it is asked to adjust its policies to comply with WTO recommendations. It is given a reasonable period of time to make the necessary changes, otherwise it must negotiate compensation with the complaining country. If compensation is not agreed within 20 days, the complainant may request authorization to apply retaliatory measures (such as raising tariffs temporarily on products from the non-compliant country). These measures are designed to encourage compliance, and should, in principle, affect the same sector as the dispute. If not feasible, they may affect other sectors or related agreements. The DSB monitors compliance until the case is fully resolved. (World Trade Organization (WTO), 2023f)

Under WTO regulations, subsidies are understood as an economic contribution granted by a government or other public entity directly or indirectly and can be given in different ways. The first is the direct transfer of funds, including grants, loans, equity infusions or loan guarantees, which provide direct financial support to an entity or industry. Another way is through tax exemptions where the government waives or forgoes the collection of revenues that it would normally collect, such as taxes. Another way is that the government can intervene through the provision or acquisition of goods and services, either by supplying them or by purchasing goods in the market to influence prices or demand for them. Support for financing mechanisms or delegation of functions, in which the government makes payments to specific funds or transfers responsibilities to private entities that should normally be managed by the government itself, is also considered a subsidy. These measures are regulated with the objective of avoiding distortions in international trade. To be considered subsidies, they must also provide a specific benefit to certain companies or sectors, thus generating an impact on trade. (Agreement on Subsidies and Countervailing Measures, 1994)

The WTO has an Agreement on Subsidies and Countervailing Measures (SCM Agreement). The SCM Agreement regulates international rules on the granting of subsidies and the use of countervailing measures to mitigate injury caused by subsidized imports. The agreement defines what a subsidy is and establishes that only those that are "specific" are subject to regulation, there are 4 types of specificity according to the SCM Agreement. According to the agreement there are four types of specificity. The first is company specificity in which the subsidy is directed to a specific company or companies granting exclusive advantages. The second is industry specificity, in which the financial support is targeted at a particular sector or industry. Another is regional specificity involving the granting of aid limited to certain geographical regions with a focus on promoting local development. The last type is prohibited subsidies, which are those directly linked to products destined for export or that depend on local inputs. These subsidies are explicitly prohibited because they seriously distort international trade by providing unfair competitive advantages. The SCM Agreement establishes three categories of subsidies, dividing them into "prohibited" or "red box" (affecting trade through exports or use of domestic products), "actionable" or "yellow box" (they are permitted, but can be challenged if they cause injury to other members) and "permissible" (those that do not distort trade or have minimal impact). It also includes countervailing measures to neutralize the negative effects of subsidized products and details a process for investigating and enforcing such measures. The agreement grants special treatment to developing countries by extending deadlines and providing flexibility to comply with regulations on prohibited and actionable subsidies. Finally, it establishes the notification of subsidies and countervailing measures and provides a mode of dispute settlement with greater importance when the case involves prohibited subsidies (World Trade Organization (WTO), 2023c) .

Another important agreement in the WTO that regulates subsidies is the Agreement on Agriculture, which focuses on reforming global agricultural trade to make it more equitable and market-oriented. This objective is to be achieved through the commitment of member countries and establishes commitments in three areas: market access, domestic support commitments and commitments on export competition. In the area of market access, it states that member countries are committed to reducing tariffs and other aspects that hinder market access; domestic support commitments are those related to limiting subsidies that may distort trade. Finally, the area of export competition refers to the reduction of subsidies for export-oriented products. Its objective is to progressively reduce subsidies and support that distort global trade by promoting a fairer agricultural system. The Agreement differentiates between developed, developing and least-developed countries, the latter two being subject to different regulations depending on their situation in the global environment, i.e. their economic level, social level and level of infrastructure. In the case of developed countries, they are committed to reducing trade-distorting domestic subsidies and to improving and facilitating access to agricultural products from developing countries. Developing countries are given some flexibility, for example, a longer window of opportunity to reduce tariffs and subsidies. In addition, the latter are not obliged to reduce subsidies aimed at promoting agricultural and rural development, nor those aimed at supporting low-income producers. As for the LDCs or least developed countries, they are not obliged to reduce subsidies and

tariffs, in addition to giving them preferential access to developed country markets. (Agreement on Agriculture, 1994) .

Literature review

Cotton has played a fundamental role in the global economy since the industrial revolution, consolidating itself as one of the main engines of industrial capitalism (Anderson, 2017) . The presence of support to domestic producers by different countries has caused a distorting effect on international trade in addition to the fact that several countries have used tariffs to prevent imports. In 2003, U.S. cotton exports represented 40% of world exports and accounted for 63% of world cotton subsidies. But it is not alone in subsidizing cotton, in the EU Greece and Spain owned 2.5% of global exports and subsidized 18.5% globally (Pan et al., 2007) .

U.S. cotton support has been widely criticized because of its impact on international trade which has negatively affected producers in developing countries (Bruno, 2021) . Subsidies granted by the United States have incentivized the production of U.S. farmers which has led to an increase in the area planted and therefore an increase in cotton production, and as a result a reduction in global cotton prices (Sall & Tronstad, 2021) . Among the U.S. subsidy programs criticized is the so-called "*Step 2*" program aimed at both exporters and domestic users of cotton with the objective of maintaining the competitiveness of U.S. cotton vis-à-vis international prices. This was done through payments that covered the price difference between the domestic and global markets. Another subsidy program was the counter-cyclical payment program, which is activated when market prices fall below a set level. The program seeks to guarantee a minimum income to farmers, regardless of the global market situation (Devadoss & Luckstead, 2020) . Additionally, as export subsidies that go against WTO principles, the GSM 102, GSM 103 and the Supplier Credit Guarantee Program were considered as prohibited export subsidies. A special note is that although the GSM-102 and GSM-103 programs provided financing to foreign buyers of U.S. agricultural products, the U.S. defended the existence of these programs as prohibited export subsidies. The United States defended the existence of these programs by arguing that they were financed by the farmers themselves through premiums which it was concluded did not cover the costs of these programs in the long run (Schenpf, 2014) .

Cotton is a fundamental crop for the U.S. economy as it is one of the main exported products as well as raw material for the textile industry, cotton production globally moves annually 600 billion dollars (Khan et al., 2020) . In international trade, there are several countries that have been affected by cotton subsidies, especially developing countries such as the C-4 countries (Benin, Burkina Faso, Chad and Mali) for which cotton is an important source of income in their economies (Hopewell, 2022) . One of the most prominent claims in the area of cotton subsidies is the one filed in 2002 before the WTO by Brazil against subsidies granted to the cotton industry in the United States, which is also the only formal complaint in the WTO on this issue. Brazil is currently one of the most important players in the global cotton market, occupying second place as a world exporter. This is a result of the transformation of its production from small farmers to large plantations driven by agricultural expansion. This industry not only drives the Brazilian economy, but also plays an important role in employment generation and economic stability in rural regions (Klein and Vidal-Luna, 2023) .

The DS267 case began in 2002 when Brazil filed a complaint with the WTO against U.S. cotton subsidies. Brazil argued that these subsidies, including programs such as Step 2 and GSM, distorted the global market and harmed Brazilian producers. In 2005, the WTO Appellate Body ruled in favor of Brazil, finding that the U.S. subsidies violated WTO agreements. Although the United States did not initially comply with the recommendations, in 2014 the two countries reached a bilateral agreement that included compensatory payments and changes to U.S. agricultural policies. (World Trade Organization (WTO), 2023b) .

The U.S. cotton industry underwent a significant transformation following the events related to the DS-267 rulings as, as a result of the outcome of this dispute and the passage of the 2014 farm bill, the direct payment and counter-cyclical subsidy programs for cotton were eliminated and replaced with a new insurance program called STAX (Stacked Income Protection Plan). This program requires producers to pay premiums to participate and will provide indemnities exclusively if county-level losses are involved. (Schenpf, 2014).

This case is extremely relevant for understanding the role of subsidies in international trade and has been analyzed on previous occasions by different authors and experts in the field. An example of this is the report of the World Bank Group by John Baffes in 2004, a period in which the case was active. The author of this report shows with numerical data how Brazil demonstrated the damage caused by U.S. subsidies to its cotton industry. These losses were estimated at USD 600 million in 2001. Moreover, thanks to these subsidies, the United States also increased its cotton exports by 41% and consequently increased the world cotton price by 12.5%. Baffes points out that at the time the DSB ruling was an important step for developing countries in the Doha Round negotiations in presenting and supporting their demands to reduce agricultural subsidies by

developed countries. Furthermore, the author highlights this case as a precedent that could allow the emergence of new subsidy-related claims that would put further pressure for reform of developed countries' subsidy policies. (Baffes, 2004)

Another noteworthy document is that of Stephen J. Powell and Andrew Schmitz from 2005 in which the authors analyze in depth the DS-267 case of cotton and subsidies, but also the DS-266 case which refers to sugar and the subsidies granted to it by the European Communities. Both cases demonstrated how agricultural subsidies distort global markets. In cotton, through domestic programs that allowed U.S. producers to avoid international prices, and in sugar, through subsidy mechanisms that allowed the European Communities to export surplus sugar at below normal cost. The DSB rulings agreed that these practices violated the Agreement on Agriculture by violating subsidy reduction commitments in the case of cotton and evading them through indirect subsidies in the case of sugar. However, although both cases revolve around agricultural subsidies, these differ in their legal approach. In the case of cotton, a precedent was established by linking domestic subsidies with real and tangible economic damage to Brazil. On the other hand, the sugar case allowed broadening the definition of export subsidies under Article 9.1(c) by considering benefits derived from domestic regulations as indirect financing. The authors conclude that, although both rulings guarantee the Agreement on Agriculture in favor of developing countries, the ambiguity of the subsidy reforms underscores the urgency of clarifying rules in the Doha Round to avoid future claims and ensure fair competition. (Powell & Schmitz, 2005).

The Anglo-Saxon authors William Ridley and Stephen Devadoss also analyze this case, but from a more quantitative point of view, highlighting the effects of U.S. subsidies on the world cotton market and how it affected others, especially Brazil. One of the main contributions of these authors in this paper is the analysis explaining Brazil's motivations for bringing the complaint to the WTO. It argues that in a situation without subsidies, the price of cotton in the global market would be determined by supply and demand. But the existence of subsidies that guarantee a price independent of the global market price will encourage greater production of U.S. cotton, thus causing a supply surplus, which leads to a reduction in the price of this product on the global market, affecting and causing losses to other cotton exporters, in this case developing countries such as Brazil, Australia and African countries. The authors also conclude that this case is a significant example of how trade disputes can lead to solutions negotiated by the parties instead of sanctions, although it also demonstrates the difficulty of eliminating protectionist practices in developed countries. The authors emphasize that the WTO ruling and its enforcement may encourage similar disputes in other agricultural sectors in the future, which reinforces the importance of the multilateral trading system. (Ridley & Devadoss, 2012).

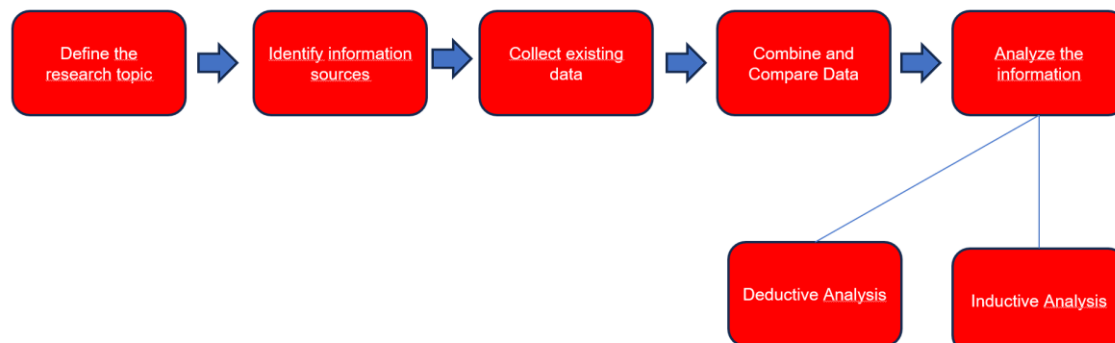
According to the Brazilian author Viana Martins et al (2024), agricultural subsidies in the international market generate significant distortions in the global market. They mainly benefit producers in developed countries by allowing them to sell their products at artificially low prices, directly affecting producers in developing or emerging economies. Therefore, the authors support the idea of eliminating or reducing subsidies in order to have a fairer and more equitable trade, but also highlight the difficulty of achieving this due to the resistance of the countries that use these subsidies to remove them, which does not lead to an international consensus.

3. Methods

In this thesis the Desk Based Research methodology was used, which according to Nalaskowski and Dejna (2020) this methodology is based on the collection and analysis of secondary sources such as databases, official reports, academic articles, official documents and other relevant documents. In this case, this methodology was used to gather information on the World Trade Organization, the Dispute Settlement Body and its stages for resolving conflicts, the theories of international trade, especially mercantilism, and the case between Brazil and the United States regarding the latter's cotton subsidies.

Figure 1
Methodology process

Desk Based Research



Note: Adapted from Online Candidate Registration database educational study potential - desk research analytical method, Nalaskowski, F., & Dejna, D. (2020). *Kultura-Społeczeństwo-Edukacja*, 18(2).

For this purpose, the following detailed steps were followed. First, the research topic was defined, which was an analysis of the DS267 WTO-Brazil case against American Cotton Subsidies from the Mercantilist Theory of Foreign Trade. After this, the sources of information to be used were identified for which were search engines for academic documents such as Scielo, Redalyc, Jstor, Research Gate and Google Scholar. As well as official documents from the WTO and its web page for relevant documents of the case and information from the organization. For the third step, information was compiled from the sources already presented, using entries such as cotton dispute between USA and Brazil, theories of international trade, Brazil policies about cotton, WTO negotiations, neomercantilism. The selection criteria for these documents was that they should be academic documents, and that the date should be from the beginning of the 2000s, since this is the time when the case began. Official documents and information from the WTO website in Spanish were also used. In the fourth step, the information obtained would be combined in order to correlate the information from different sources to answer the objectives. In the fifth step, an analysis of the information would be carried out by means of a deductive analysis, which according to Kyngäs and Kaakinen (2020), deductive analysis uses a previously existing theoretical framework to interpret concepts, theories and hypotheses into new concepts; and inductive analysis allows concepts to be generated or patterns to be identified from specific data. In this paper, deductive analysis was used to determine how the mercantilist theory explains actions in international trade while inductive analysis deduced whether the actions of the parties in the WTO DS267 case can be explained by the postulates of the mercantilist theory of foreign trade.

4. Results

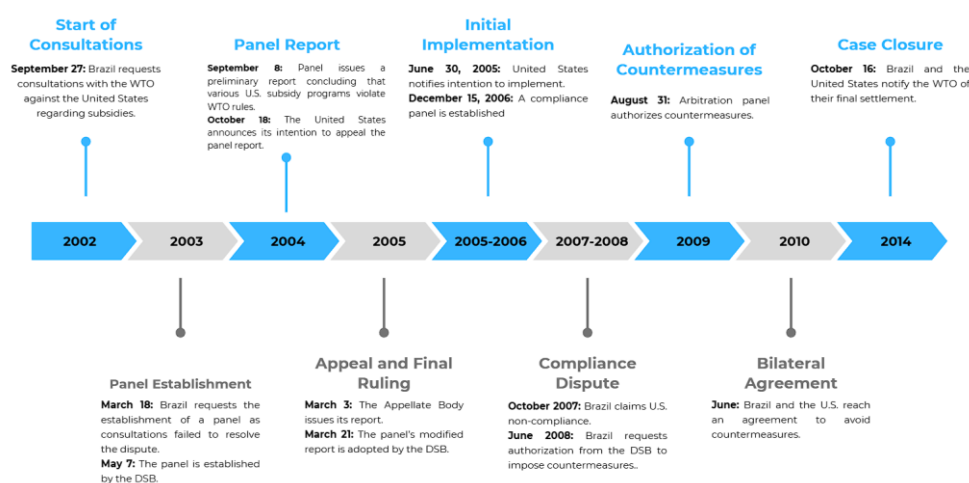
4.1 Case development

For the development of section 4, four key documents issued by the World Trade Organization (WTO) have been used, which correspond to the case "United States - Subsidies on Upland Cotton". These are: the Panel report (World Trade Organization (WTO), 2004), the Appellate Body report (World Trade Organization (WTO), 2008), the joint submission of Brazil and the United States (Punke & Estivallet, 2010) and the Notification of Mutually Agreed Settlement (World Trade Organization (WTO), 2014), all of which provide insight into the context, development and legal and trade implications of this dispute.

Brazil filed a request for consultations with the United States at the WTO on September 27, 2002, alleging that U.S. subsidies to its cotton industry violated WTO agreements. Brazil argued that the subsidies distorted global market prices in this industry and harmed Brazilian producers. On March 7, 2003, a panel would be established to examine the case, but due to the complexity of the case, the chairman of the panel would inform that the panel report could not be ready by the standard time of 6 months. Thus, the panel report would be distributed on September 8, 2004. On October 18, 2004, the United States would submit its request to appeal certain rulings agreed to by the panel. Due to the approaching holidays, the appellate body would issue its report on March 3, 2005. The panel report would be modified by the report of the appellate body and adopted by the DSB on March 21, 2005, including that the United States should implement the

recommendations of the DSB no later than 6 months from the adoption of the report. On June 30, 2005, the United States announced that it would stop accepting applications for new payment guarantees in relation to the GSM-103 program in order to implement the recommendations of the DSB. By December 2006 a compliance panel was established at the request of Brazil which argued that the actions taken by the United States did not satisfy the recommendations given by the WTO. During October 2007 Brazil notified the United States of non-compliance, which led to Brazil's request to the DSB in June 2008 to impose countermeasures on the United States until it complied. The arbitration panel gave the green light to the imposition of countermeasures worth US\$830 million per year with the possibility of suspending intellectual property rights in areas such as pharmaceuticals and technology. Rather than face these sanctions, the U.S. and Brazil began bilateral negotiations, culminating in an agreement in 2010. This agreement included annual payments to fund programs in the sector. Finally, in 2014, both countries reached a final agreement, in which the U.S. made a one-time payment and modified its agricultural policies to comply with WTO rules. Therefore, on October 16, 2014, the delegations of Brazil and the United States notified the Chairman of the Panel of the mutually agreed settlement between the two parties, ending the procedure.

Figure 2
DS-267 Case Timeline



Note: Prepared by the authors with information obtained from official WTO documents.

4.2 Grant Programs and Unfulfilled Items

The United States defended its subsidy programs by claiming that these programs fell under what was known as the "Peace Clause" of the Agreement on Agriculture. The Peace Clause, also known as "due restraint" in Article 13 of the AoA, was a temporary provision (from 1995 to December 2003; after that, all subsidies would become subject to the WTO and DSB) that allowed certain subsidies on agricultural terms during the period of adjustment to the new WTO rules following the 1994 Uruguay Round, in order to avoid disputes among members in the area of subsidies.

Among the measures protected from dispute settlement by the Peace Clause were green box, yellow box and those export subsidies that had reduction commitments. Brazil argued that the United States could not protect its subsidies under the Peace Clause, since they exceeded the limits of subsidies granted by the United States to this industry in 1992, the year used as a base year prior to the establishment of the new WTO rules. By exceeding this limit, the subsidies were excluded from the protection of the Peace Clause. Brazil also argued that several of these programs did not qualify as green box programs.

Among the U.S. subsidy programs that Brazil claimed caused it harm was the Marketing Loan Payments Program, established in 1986. This allowed farmers to take out loans when product prices fell on the global market and store their products as collateral until world market prices rose again. Brazil argued that when prices fell, producers were only required to pay a reduced rate on the loan, making this program a direct subsidy, in violation of GATT Article XVI, ASCM Articles 5 and 6, and the Peace Clause of the AA, as it provided subsidies that distorted international trade and caused serious prejudice by displacing other members' exports, in addition to exceeding the levels set in 1992.

Another program involved in the dispute was the Flexible Production Payments program, which was in effect from 1996-2002. It provided support to producers of several agricultural products, including cotton. It provided financial support to farmers based on historical yields rather than current production. Brazil argued that this program did not fall under the protection of the Green Box of the Peace Clause or Article 5 of the ASCM, as it restricted the products planted on these lands, and therefore was not decoupled from production and caused adverse effects on trade.

The Market Assistance Payment Program was also involved in the case, as it complemented the previous one. Established between 1998 and 2001, this subsidy was provided only to those already receiving flexible payments and represented up to an additional 50% of those payments. Another key program in the dispute was the Direct Payment Program, introduced in the 2002 *Farm Bill* as a successor to production flexibility contract payments. It supported producers of nine different types of agricultural commodities, most notably cotton. It was based on historical acreage and yields, regardless of market price or current production quantity. In addition, it restricted the cultivation of fruits, vegetables and legumes on subsidized land. This program established fixed quotas per pound produced in the case of cotton. It was also argued that it was incompatible with Articles XVI of the GATT, 5 and 6 of the ASMC and the Peace Clause of the AA, since it caused damage to Brazilian production.

The Countercyclical Payment Program, introduced in the 2002 *Farm Bill*, was also based on historical acreage and yields, but, unlike direct payments, these benefits were linked to export volume and market prices. This subsidy was triggered when the price of the commodity, in this case cotton, fell below a certain reference price. The amount of the subsidy could reach up to 85% of the current area. It was recognized as countercyclical, since the lower the world price of cotton, the higher the subsidies granted to the beneficiaries. Among the articles that this program violated were Articles 3.1 (b) and 6.3 (c) of the ASMC, as well as the Peace Clause, since they implied the existence of prohibited subsidies, the displacement of the market of other members and that they were not under the protection of the Green Box.

On the other hand, the Crop Insurance Program, administered by the Federal Crop Insurance Act, provided coverage against losses due to natural disasters or price fluctuations, with subsidized premiums (even free up to 50% coverage), which reduced risks for U.S. farmers. Brazil argued that these subsidies, along with other domestic support programs, contributed to the overproduction of cotton in the United States and distorted international prices.

Another of the main programs in dispute in this case was the User Marketing Payments Program or *Step 2 (Step 2)*. This measure, implemented in U.S. farm legislation, provided financial compensation to buyers and exporters of cotton when the price of U.S. cotton exceeded a specified price compared to the international market benchmark price. It was intended to maintain the competitiveness of U.S. cotton by ensuring that buyers were not discouraged from purchasing domestic cotton because of its higher price relative to other options in the global market.

The subsidy kicked in when the U.S. cotton price was at least \$1.25 per pound higher than the European reference price, plus the adjusted world price did not exceed 130% of the cotton marketing loan rate. This resulted in an artificial cost reduction for U.S. buyers. Brazil alleged that this program violated Article 9 of the AA and Articles 3 and 8 of the ASCM, since it constituted an undeclared export subsidy, exceeding the commitments made by the United States. In addition, it granted payments conditioned to export performance, which distorted international competition and affected producers in other countries.

Finally, other measures in dispute were the Export Credit Guarantee Measures, under which three programs were recognized: GSM-102, GSM-103 and SCGP, administered by the *Commodity Credit Corporation* (CCC). These programs facilitated the sale of agricultural products in international markets, offering guarantees to exporters who sold their products on credit. The GSM-102, which guaranteed credits of up to 3 years; the GSM-103, which guaranteed credits with terms of 3 to 10 years; and the *Supplier Credit Guarantee Program* (SCGP), which covered exports on credit for a maximum of 180 days. Brazil argued before the WTO that these programs were incompatible with Articles 10.1 and 8 of the AA, and Article 3 of the ASCM, which established that they were not included in the schedules of commitments, which allowed evading subsidy reductions and conditioned them to the exporter's performance. The main difference between these was that the GSMs were aimed at guaranteeing the payment of credits from foreign banks that financed the purchase, while the SCGP directly benefited the exporter by allowing him to export on credit, since it guaranteed payment if the foreign importer did not pay.

In summary, Brazil claimed to receive "serious prejudice" from U.S. cotton subsidies because they: significantly suppressed the price of U.S. cotton in its market, the world market and the Brazilian market; increased the U.S. share of the world market; and caused the U.S. to absorb more than a fair share of the world cotton market.

Table 1
Subsidy programs and unfulfilled items

Program	Mechanism	Article
Loan payments for commercialization.	Loans at reduced rates when global prices were falling.	GATT Art. XVI; ASMC Art. 5-6; AA Peace Clause
Flexible Production Payments	Payments based on historical yields (not current production).	ASMC Art. 5; AA Peace Clause (did not comply with green box)
Market Assistance Payments	Additional 50% supplement to the Flexible Payments.	ASMC Art. 5-6; AA Peace Clause
Direct Payments	Fixed subsidies per pound of cotton, based on historical acreage	GATT Art. XVI; ASMC Art. 5-6; AA Peace Clause
Anti-cyclical Payments	Subsidies triggered when prices fell below a reference level.	ASMC Art. 3.1(b), 6.3(c); AA Peace Clause
Phase 2 (User Payments)	Compensation to exporters when U.S. prices > international prices.	AA Art. 9; ASMC Art. 3, 8 (undeclared export subsidies)
Credit Guarantees (GSM-102/103)	State guarantees for loans to foreign buyers (3-10 years)	AA Art. 10.1, 8; ASMC Art. 3 (avoidance of commitments)
Crop Insurance	Subsidized premiums to cover price/disaster risks.	ASMC Art. 5-6

Note: Prepared by the authors with information obtained from official WTO documents.

4.3 Panel and appellate body findings.

As the case was highly complex, the initial report, issued by the panel in September 2004, was appealed several times by both parties involved. After these appeals, the panel and the Appellate Body reached several findings. They were based on the measures discussed in the case.

Regarding the U.S. position to protect its programs under the "Peace Clause" of the Agreement on Agriculture, the panel found that the subsidy programs did not qualify for protection. These programs had exceeded the base amount established in 1992, meaning they could not be excluded from dispute settlement procedures in response to claims from other countries. It was due to the U.S. failing to meet its support reduction commitments between 1999 and 2002. As a result, the panel also concluded that exceeding these limits seriously harmed Brazil's market interests.

The panel analyzed the U.S. programs to determine the validity of Brazil's claims. The panel concluded that marketing loan payments, production flexibility contract payments, market loss assistance payments, counter-cyclical payments, crop insurance payments, and cottonseed payments qualified as "specific" subsidies under Article 3 of the ASCM, as they were intended to promote domestic products over imported ones.

The panel also found serious prejudice under Article 6.3(c). It identifies such prejudice when a subsidy has a significant price-suppressing effect in the same market. To assess this, the panel distinguished between two types of subsidies: price-contingent subsidies (dependent on world prices) and non-price-contingent subsidies. Price-contingent programs included the Marketing Loan Payments program, user marketing payments (Phase 2), market loss assistance payments, and counter-cyclical payments.

In the case of the marketing loan repayment program, when market prices fell below the loan rate, producers could repay loans at a lower rate using part of their production. This gave them a financial advantage, incentivized production, and led to lower world prices. The greater the gap between the world price and the loan rate, the larger the subsidy benefit.

For the user fee program for marketing (Phase 2), the panel found that lower prices for foreign buyers increased demand for U.S. cotton exports and domestic cotton, leading buyers to favor U.S. products over imports. This helped maintain a lower-than-normal world market price.

The panel also noted that counter-cyclical payments and market assistance payments were triggered by falling cotton prices. Counter-cyclical payments responded to prices dropping below a government-defined threshold, while market assistance payments responded to general market declines. These mechanisms encouraged farmers to maintain or increase production by reducing income risk.

Regarding non-price subsidies, the panel determined that production flexibility contract payments, crop insurance payments, and direct payments fell into this category because they were not tied to current market prices. For instance, production flexibility contracts allocated a fixed budget across seven crops, including

cotton. Direct payments were based on historical yields rather than current production. These programs did not influence market price fluctuations directly but increased producers' wealth, enabling them to invest more and take on additional risk. Because of their different nature and weaker link to the subsidized products, the panel excluded them from the price suppression analysis.

However, the panel did find that the "price-contingent subsidy" programs created serious prejudice against Brazil's interests, in violation of Article 5, Article 6.3(c) of the ASCM, and Article XVI:1 of the GATT.

Finally, the panel ruled that some programs identified by Brazil as "threats of serious prejudice"—specifically the User Payments for Marketing (Phase 2) and Export Credit Guarantees (GSM-102, GSM-103, and SCGP)—were prohibited subsidies. These had to be withdrawn promptly, even though the initial report had not found them to be applied in a way that circumvented commitments. The deadline for withdrawal was set at six months from the report's adoption or by July 1, 2005, whichever came first.

4.4 Panel recommendations and conclusion of the case

As for the recommendations issued by the Panel and the Appellate Body, they advised that the United States withdraw the prohibited subsidies by July 1, 2005. The maximum deadline for eliminating the actionable subsidies was set for September 21, 2005. Consequently, the U.S. ceased awarding credits under the GSM-103 and SCGP programs in 2005. The GSM-102 program remained in effect, but the United States committed to modifying it to comply with WTO regulations. In February 2006, the user payments under the marketing program (Phase 2) were repealed. However, the recommendations regarding the marketing loan payments and counter-cyclical payments were not implemented.

Since the United States did not fully comply with the Panel's recommendations, Brazil requested the establishment of a compliance panel in 2006 to assess the extent of U.S. adherence. After the panel confirmed non-compliance, Brazil requested authorization to impose countermeasures, proposing an annual penalty of US\$1.037 billion until the U.S. made the recommended adjustments or withdrew the measures. These included the marketing loan program, user payments (Phase 2), market assistance payments, and counter-cyclical payments.

The United States considered Brazil's proposed countermeasures excessive. As a result, the arbitrator and both parties conducted calculations to determine a fair compensation figure. This amount was set at US\$147.3 million per year, to be applied through the suspension of concessions or other obligations.

In addition, Brazil sought authorization for countermeasures in other areas, such as intellectual property and trade in goods. The level of retaliation in these areas would be calculated annually, based on the damage caused to Brazilian industry by the U.S. subsidies. Retaliation could only be applied if the damage exceeded a certain threshold. In 2008, this threshold was set at US\$682 million. Combined with the previously determined US\$147.3 million, the total level of countermeasures for 2008 reached US\$829.3 million. Brazil also decided to suspend concessions on several U.S. imports worth up to US\$591 million. These included products such as lead, pork, medicines, and technological goods.

On April 30, 2010, the Brazilian delegation informed the DSB chairman that countermeasures against the U.S. would be paused while negotiations continued. On August 25, both delegations announced that they had reached a mutually agreed solution.

This 2010 agreement established that U.S. support for the cotton industry would be capped at an annual level below the average support provided between 1999 and 2005. The United States agreed to reform the GSM-102 program and hold regular consultations—at least four times per year—to ensure compliance with the agreement. The agreement would remain in effect until a new U.S. Farm Bill was enacted.

On October 16, 2014, the DSB was officially informed of the **Memorandum of Understanding Regarding the Cotton Dispute**. Under this agreement, the United States would make a one-time payment of US\$300 million to the Brazilian Cotton Institute, to be used for projects, technical assistance, and training in the cotton sector. The GSM-102 program would be restructured to limit terms to 18 months with no extensions, and premiums would be set at 90% for credits over 12 months and 95% for those lasting 18 months. Brazil committed to transparent use of the U.S. funds through semi-annual reporting.

A "peace clause" was also established, in which Brazil agreed not to file WTO complaints against U.S. cotton subsidies as long as they complied with WTO rules and for the duration of the agreement. Both parties agreed that any future disputes would first be addressed through bilateral consultations rather than formal WTO proceedings. This agreement remained effective until September 30, 2018, bringing an end to a dispute that had lasted more than 12 years.

5. Discussion

Mercantilism, which emerged in 16th-century Europe, posits that national wealth is measured by the accumulation of precious metals and a favorable trade balance. This balance is achieved through protectionist policies such as export subsidies, import tariffs, and strong state control over the economy—making the state a central economic actor (Magnusson, 2015). Today, a modern iteration of this theory has taken shape, referred to as neo-mercantilism. In this revised form, the original principles are adapted to contemporary global dynamics. To identify mercantilist elements in the foreign trade policies and actions of the parties involved in WTO Case DS-267, it is essential to compare these actions against theoretical benchmarks and expert commentary.

(Oatley, 2019) identifies three core tenets of modern mercantilism. First, national power is closely tied to economic strength. Second, exports should be promoted over imports, as not all economic activities contribute equally to national wealth. Third, market self-regulation is seen as potentially incompatible with a state's objective to enhance its power. The second principle is clearly reflected in U.S. subsidy programs that favored domestic cotton producers and buyers, while offering no comparable support to consumers of imported cotton.

According to Wu (2018) mercantilist actions often emerge as protectionist responses to perceived threats to national industries. He notes that countries like the United States, several European nations, and Japan have adopted such measures even when they contradict international treaty obligations. These countries act to protect industries that may not be the primary drivers of their economies but are nonetheless strategically important due to their political significance or impact on employment. Wu's observation is evident in the DS-267 case, where U.S. subsidies to its cotton industry violated international agreements such as the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures (ASCM). Additionally, the United States ignored recommendations from the WTO Appellate Body, prioritizing national interests over compliance with multilateral obligations.

(Pereyra, 2015) argues that, under mercantilism, one nation's gain often comes at another's expense. This idea is supported in the DS-267 dispute, where the United States claimed that its subsidies had only a minimal impact on trade or production (WTO, 2004, para. 3.6). However, this was contradicted by the WTO panel, which found that these subsidies significantly boosted U.S. cotton production and exports, thereby disadvantaging other producers—particularly in developing countries.

Data from the Observatory of Economic Complexity (2017) further supports this. In 1999, the United States accounted for 18% of global cotton exports. This figure rose to 25.6% in 2000, 29.6% in 2001, and 33.6% in 2002. In contrast, Brazil's share grew only from 0.08% to 1.74% during the same period. Exports from the African C-4 countries—Burkina Faso, Chad, Benin, and Mali—declined. Burkina Faso's share dropped from 2.3% to 1.68%, Chad's from 1.29% to 0.75%, Benin's from 2.55% to 1.84%, and Mali's from 4.14% to 2.33%. These figures undermine the U.S. claim that its subsidies did not distort trade. They illustrate, as Pereyra (2015) notes, that economic growth in some countries often comes at the cost of stagnation or decline in others. This inequity motivated Brazil's WTO complaint and galvanized support from the C-4 countries. The U.S. actions reflect what Hume (1752) described in *Of the Balance of Trade*: that mercantilist policies not only alter a country's own economy but also disrupt global trade—especially for developing nations.

Wu (2018) highlights a paradox in the trade policies of developed nations: they champion free trade rhetorically but apply protectionist measures when national interests are at stake. The WTO has stated that the United States "has consistently pursued a policy of seeking an increasingly open trading environment worldwide and an expansion of trade" since the Reciprocal Trade Agreements Act of 1934 (WTO, 1996, para. 1). However, the U.S. position in DS-267 contradicts this stance, aligning instead with Wu's argument. Similarly, in Case DS-266, Brazil accused the European Communities of distorting trade through sugar subsidies—further reinforcing the pattern of selective protectionism by developed nations (Powell & Schmitz, 2005).

McDermott (1999) contends that mercantilist principles remain prevalent, albeit in subtler forms, in developed countries. In the U.S., industries often receive subsidies or tax breaks that enhance their international competitiveness. These forms of state support reflect a contemporary mercantilist outlook. U.S. cotton subsidy programs—such as Phase 2 and marketing loan payments—were later classified by the WTO Panel as direct subsidies and deemed prohibited.

This suggests that, despite advocating for free trade, the United States readily intervenes in key industries when it serves economic or political goals. Yet, it is not alone in doing so. Brazil, the complainant in the DS-267 case, has also used various strategies to safeguard its economic interests. According to Shaffer (2008), Brazil frequently turns to the WTO Dispute Settlement Body to challenge the trade practices of

developed nations like the U.S. In the DS-267 case, Brazil sought not only to halt U.S. subsidies but to effect structural changes to the Farm Bill. Farias (2018) explains that this intent underpinned Brazil's broad retaliatory threats, which extended into areas such as intellectual property rights.

Although Brazil's actions did not involve direct subsidies, they had clear mercantilist undertones, using multilateral legal mechanisms to influence U.S. policy and protect domestic industries. Brazil has also engaged in agricultural support domestically. According to Oñate (2017) Brazil launched the Safra Guarantee Program in 2002 to support farmers who suffered significant crop losses. It also implemented the Private Rural Insurance Subsidy Program, which helps reduce production costs by making insurance more affordable. While these interventions are legal under WTO rules, as they are not directly tied to prices or output, they still reflect a state-driven effort to support national agriculture. The insurance program, potentially classified under the ASCM's "yellow box," could be subject to dispute if found to distort trade.

The DS-267 dispute had broader implications, influencing other nations and the global conversation on agricultural subsidies. The C-4 countries, severely affected by U.S. cotton subsidies, supported Brazil's complaint and launched their own initiative in 2003 titled the "Sectoral Initiative in Favor of Cotton," which sought not only subsidy elimination but also financial compensation (Baffes, 2011). These actions highlight two key outcomes: developing nations are increasingly willing to defend their interests through legal channels, and the WTO is seen as a viable platform for challenging the dominance of economically powerful countries.

The case also had tangible policy outcomes. The WTO's ruling influenced the 2014 U.S. Farm Bill, prompting the replacement of existing programs with the Stacked Income Protection Plan. This illustrates how Brazil, leveraging the WTO system, was able to influence the agricultural policy of a global superpower—despite the WTO lacking any formal enforcement authority.

6. Conclusion

This paper set out to analyze WTO Case DS267 through the lens of mercantilist and neo-mercantilist trade theory. The state actions examined reveal a contemporary manifestation of the age-old struggle for economic dominance through state intervention. The case highlights stark power asymmetries within the global trading system, wherein subsidy policies from advanced economies can devastate producers in developing countries, severely curtailing their prospects for economic growth.

On one hand, the United States—long a vocal proponent of free trade—implemented a series of highly distorting agricultural subsidies that favored its cotton industry, restricted international competition, and reinforced its dominance in global markets. These subsidy programs reflect the core principles of both classical mercantilism and its modern variants: extensive state intervention, selective protectionism, and the strategic use of trade to consolidate national power.

On the other hand, while Brazil refrained from implementing distorting subsidies in its cotton sector—limiting its support to WTO-compliant programs—its response can nonetheless be seen as neo-mercantilist. Brazil strategically employed the Dispute Settlement Body (DSB) as a tool to defend a sector deemed vital to its national interests, challenging what it considered unfair trade practices. By seeking both compensation and structural changes to U.S. agricultural policy, Brazil leveraged legal mechanisms to safeguard its external competitiveness. This approach, though institutionalized and rule-based, embodies the core logic of modern mercantilism.

This analysis thus concludes that U.S. actions in the DS267 dispute represent an offensive mercantilist stance, characterized by direct intervention through subsidies. Brazil's response, in contrast, exemplifies a defensive neo-mercantilist strategy—using multilateral mechanisms to counteract trade distortions and uphold national interests.

The persistence of neo-mercantilist practices undermines not only global trade fairness but also erodes confidence in the WTO's role as a neutral arbiter. DS267 underscores the enduring tension between national sovereignty and multilateral obligations. Although the dispute was handled within the WTO's institutional framework, its resolution—twelve years later—revealed serious flaws. The United States' reluctance to fully comply with the panel's rulings, citing compatibility with WTO rules, led to a prolonged deadlock. Brazil, meanwhile, defended not only its own producers but also those of other developing nations similarly affected.

The U.S. refusal to adhere to DSB decisions highlighted both its protectionist tendencies and the WTO's structural weakness: the lack of coercive mechanisms to enforce compliance. Ultimately, the dispute was resolved outside the multilateral system through a bilateral agreement—raising concerns about the WTO's capacity to enforce its rulings, but preserving diplomatic and trade relations between the parties.

These findings underscore the urgent need for the WTO to strengthen its enforcement tools to prevent similar situations and foster fairer conditions in global agriculture and beyond. This is particularly critical given the current paralysis of the DSB since 2019, triggered by the U.S. blockade of Appellate Body appointments. This institutional gridlock poses a major threat to the WTO's credibility and effectiveness. The DS267 case offers a valuable precedent for understanding this crisis: the multilateral system's challenge to U.S. domestic policy likely informs current U.S. resistance to restoring the DSB. This raises an important avenue for future research—investigating how past rulings influence powerful states' opposition to multilateral trade governance.

While this study primarily adopts mercantilist and neo-mercantilist frameworks, it could benefit from incorporating additional theoretical perspectives. A realist lens would frame the case as an assertion of national interest through strategic state action. Liberalism, by contrast, would emphasize the role of international institutions like the WTO in mediating conflict and maintaining systemic stability. Moreover, theories such as absolute advantage could shed light on how U.S. subsidies distorted natural market outcomes, obstructing Brazil's comparative benefits in cotton production.

Finally, this analysis lays the groundwork for further inquiry. Promising areas include assessing the long-term viability of bilateral dispute resolutions, evaluating the future of the multilateral trading system amid rising protectionism, and reimagining the WTO's role in an increasingly fragmented global trade landscape shaped by economic nationalism and trade wars.

7. References

- Acuerdo Sobre La Agricultura (1994).
- Acuerdo Sobre Subvenciones y Medidas Compensatorias (1994).
- Anderson, E. N. (2017). *Empire of Cotton: A Global History*. By Sven Beckert. 2014. Vintage, New York, NY. 615 pp. *Ethnobiology Letters*, 8(1). <https://doi.org/10.14237/eb1.8.1.2017.1068>
- Baffes, J. (2004). *Brazil vs. US: Cotton Subsidies and Implications for Development*. <https://documents.worldbank.org/pt/publication/documents-reports/documentdetail/611501468004226250/brazil-vs-us-cotton-subsidies-and-implications-for-development>
- Baffes, J. (2011). *Cotton Subsidies, the WTO, and the "Cotton Problem."* <http://econ.worldbank.org>.
- Blanco, R. G. (2024). *Síntesis de teorías del comercio internacional*.
- Bruno, F. M. R. (2021). The (in)effectiveness of the decisions Of the world trade organization in the analysis of the negative impacts of the New economic policy for u.s. agriculture. *Latin American Journal of Development*, 3(4), 1827–1840. <https://doi.org/10.46814/lajdv3n4-011>
- Casanova Montero, A. R., & Zuaznábar Morales, I. R. (2018). *El Comercio Internacional: teorías y políticas del mundo viviente* (Editorial Universo Sur (ed.)). [https://repositorio.umet.edu.ec/bitstream/67000/93/1/El comercio internacional.pdf](https://repositorio.umet.edu.ec/bitstream/67000/93/1/El%20comercio%20internacional.pdf)
- Cwik, P. F. (2011). The new neo-mercantilism: Currency manipulation as a form of protectionism. *Economic Affairs*, 31(3), 7–11. <https://doi.org/10.1111/j.1468-0270.2011.02117.x>
- Devadoss, S., & Luckstead, J. (2020). US–Brazilian cotton policies. *World Economy*, 43(8), 2222–2236. <https://doi.org/10.1111/twec.12941>
- Farias, R. de S. (2018). *Política Externa Brasileira em Debate: Dimensões e Estratégias de Inserção Internacional no Pós-Crise de 2008*. https://portalantigo.ipea.gov.br/agencia/images/stories/PDFs/livros/livros/181206_a_politica_externa_brasileira_cap05.pdf
- GATT. (1947). *Acuerdo General sobre Aranceles Aduaneros y Comercio (GATT de 1947)*. 1–55. https://www.wto.org/spanish/docs_s/legal_s/gatt47.pdf
- GATT. (1979). *Acuerdo Relativo a la Aplicación del Artículo VI del Acuerdo General sobre Aranceles Aduaneros y Comercio (Código Antidumping de Tokio)* (pp. 141–161). https://www.wto.org/spanish/docs_s/legal_s/tokyo_adp_s.pdf
- Hopewell, K. (2022). Heroes of the developing world? Emerging powers in WTO agriculture negotiations

- and dispute settlement. *Journal of Peasant Studies*, 49(3), 561–584.
<https://doi.org/10.1080/03066150.2021.1873292>
- Khan, M. A., Wahid, A., Ahmad, M., Tahir, M. T., Ahmed, M., Ahmad, S., & Hasanuzzaman, M. (2020). World cotton production and consumption: An overview. In *Cotton Production and Uses: Agronomy, Crop Protection, and Postharvest Technologies* (pp. 1–7). Springer Singapore.
https://doi.org/10.1007/978-981-15-1472-2_1
- Klein, H. S., & Vidal-Luna, F. (2023). The complex evolution of Brazilian cotton production. *América Latina En La Historia Económica*, 30(2), 1–35. <https://doi.org/10.18232/20073496.1374>
- Krugman, P. R., Obstfeld, M., & Melitz, M. J. (2012). *Economía Internacional: Teoría y Política*. <https://rodrigo.wordpress.com/wp-content/uploads/2019/03/economia-internacional-paul-krugman-ed-9.pdf>
- Kyngäs, H., Mikkonen, K., & Kääriäinen, M. (2020). *The Application of Content Analysis in Nursing Science Research*. https://link.springer.com/chapter/10.1007/978-3-030-30199-6_3
- Magnusson, L. (2015). The political economy of mercantilism. *The Political Economy of Mercantilism*, 1–230. <https://doi.org/10.4324/9781315694511>
- Mayorga Sánchez, J. Z., & Aldana Martínez, C. (2008). PAUL KRUGMAN Y EL NUEVO COMERCIO INTERNACIONAL. 73–86. <https://dialnet.unirioja.es/descarga/articulo/4547087.pdf>
- McDermott, J. (1999). Mercantilism and modern growth. *Journal of Economic Growth*, 4(1), 55–80. <https://doi.org/10.1023/A:1009878625417>
- Moreno, A., Narváez, D., & Sancho, S. (2016). DOCUMENTO TÉCNICO DE INTEGRACIÓN MONETARIA Y FINANCIERA REGIONAL. www.bce.ec
- Nalaskowski, F., & Dejna, D. (2020). Online Candidate Registration database educational study potential – desk research analytical method. *Kultura-Społeczeństwo-Edukacja*, 18(2). <https://doi.org/10.14746/kse.2020.18.16.2>
- Oatley, T. (2019). *International Political Economy* (Sixth).
- Ocran, M. K. (2019). *Mercantilism as a World Economic Order* (pp. 159–196). https://doi.org/10.1007/978-3-030-10770-3_5
- Oñate, C. (2017). *Gestión integral del riesgo de desastres en el sector agrícola y la seguridad alimentaria en los países del CAS: Análisis de capacidades técnicas e institucionales - Brasil*. www.fao.org/contact-us/licence-request
- Organización Mundial del Comercio (OMC). (1994a). Acuerdo sobre la aplicación de medidas sanitarias y fitosanitarias. *Acuerdo Sobre La Aplicación de Medidas Sanitarias y Fitosanitarias*, 1–14. <https://doi.org/10.30875/0e9d76a5-es>
- Organización Mundial del Comercio (OMC). (1994b). *Acuerdo sobre Obstáculos Técnicos al Comercio (AOTC)*. 131–152.
- Organización Mundial del Comercio (OMC). (2004). Informe del Grupo Especial: Estados Unidos — Subvenciones a la producción de algodón. In *WT/DS267/R*.
- Organización Mundial del Comercio (OMC). (2008). *Estados Unidos – Subvenciones al algodón – Informe del Órgano de Apelación*. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=S:/WT/DS/267ABRW.pdf&Open=True>
- Organización Mundial del Comercio (OMC). (2014). *Estados Unidos – Subvenciones al algodón: Notificación de una solución mutuamente acordada*. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=s:/WT/DS/267-46.pdf&Open=True>
- Organización Mundial del Comercio (OMC). (2023a). *¿Qué es la Organización Mundial del Comercio?* https://www.wto.org/spanish/thewto_s/whatis_s/tif_s/fact1_s.htm
- Organización Mundial del Comercio (OMC). (2023b). *DS267: Estados Unidos — Subvenciones al algodón americano (upland)*. https://www.wto.org/spanish/tratop_s/dispu_s/cases_s/ds267_s.htm

- Organización Mundial del Comercio (OMC). (2023c). *Explicación del Acuerdo sobre Subvenciones y Medidas Compensatorias ("Acuerdo SMC")*. https://www.wto.org/spanish/tratop_s/scm_s/subs_s.htm
- Organización Mundial del Comercio (OMC). (2023d). *Los años del GATT: de La Habana a Marrakech*. https://www.wto.org/spanish/thewto_s/whatis_s/tif_s/fact4_s.htm
- Organización Mundial del Comercio (OMC). (2023e). *Órgano de Solución de Diferencias*. https://www.wto.org/spanish/tratop_s/dispu_s/dispu_body_s.htm
- Organización Mundial del Comercio (OMC). (2023f). *Una contribución excepcional*. https://www.wto.org/spanish/thewto_s/whatis_s/tif_s/displ_s.htm
- Pan, S., Fadiga, M., Mohanty, S., & Welch, M. (2007). Cotton in a free trade world. *Economic Inquiry*, 45(1), 188–197. <https://doi.org/10.1111/j.1465-7295.2006.00014.x>
- Pereyra, D. M. (2015). *Librecambio vs. Proteccionismo: un debate desde la teoría del comercio internacional*. 4(7), 65–88.
- Porter, M. (1990). *The Competitive Advantage of Nations*. https://economie.ens.psl.eu/IMG/pdf/porter_1990_-_the_competitive_advantage_of_nations.pdf
- Powell, S., & Schmitz, A. (2005). *The Cotton and Sugar Subsidies Decisions: WTO's Dispute Settlement System Rebalances the Agreement on Agriculture*. February 2005. https://www.researchgate.net/publication/23517215_The_Cotton_and_Sugar_Subsidies_Decisions_WTO's_Dispute_Settlement_System_Rebalances_the_Agreement_on_Agriculture
- Punke, M., & Estivallet, P. (2010). *Comunicación conjunta del Brasil y los Estados Unidos*. [https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=\(%40Symbol%3D+wt%2Fds267%2F*\)&Language=SPANISH&Context=FomerScriptedSearch&languageUICchanged=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(%40Symbol%3D+wt%2Fds267%2F*)&Language=SPANISH&Context=FomerScriptedSearch&languageUICchanged=true#)
- Ridley, W., & Devadoss, S. (2012). Analysis of the Brazil-USA cotton dispute. *Journal of International Trade Law and Policy*, 11(2), 148–162. <https://doi.org/10.1108/14770021211239668>
- Sall, I., & Tronstad, R. (2021). Simultaneous Analysis of Insurance Participation and Acreage Response from Subsidized Crop Insurance for Cotton. *Journal of Risk and Financial Management*, 14(11). <https://doi.org/10.3390/jrfm14110562>
- Schenpf, R. (2014). *The WTO Brazil-U.S. Cotton Case*. <https://crsreports.congress.gov/product/pdf/R/R43336>
- The observatory of Economic Complexity. (2017). *Which countries export Cotton?* https://oec.world/en/visualize/tree_map/hs92/export/show/all/0905/2017/
- Uzunidis, D., & Laperche, B. (2011). The New Mercantilism and the Crisis of the Global Knowledge Economy. *Journal of the Knowledge Economy*, 2(3), 373–392. <https://doi.org/10.1007/s13132-011-0040-0>
- Velasco, O. R. V. (2024). Neo-Mercantilism in The Semiconductor Industry: The Chinese Strategy. *Asian Journal of Engineering, Social and Health*, 3(3), 586–601. <https://doi.org/10.46799/ajesh.v3i3.278>
- Viana Martins, M. M., Cechin, A., Queen Almeida Bispo, S., De Araújo Pedrosa, F., & Braga Nonnenberg, M. J. (2024). Subsídios agrícolas e comércio internacional: quais são as implicações sobre as exportações mundiais e brasileiras? *Estudios Económicos*, 41(82), 155–187. <https://doi.org/10.52292/j.estudecon.2024.3508>
- Witker Alberto. (2011). *Derecho del Comercio Exterior*. UNAM. <http://ru.juridicas.unam.mx:80/xmlui/handle/123456789/11857>
- Wu, S. (2018). The Mercantilist Root of the United States, Europe And Japan's Refusal to accept China's market economy status. *World Review of Political Economy Vol. 9 No. 3*. www.plutojournals.com/wrpe/