

United States – Subsidies on Upland Cotton

(WT/DS267)

**Answers of the United States of America
to Question 264(b) Dated February 3, 2004, from the Panel to the Parties
following the Second Panel Meeting**

March 3, 2004

264. The Panel asks the United States to clarify certain aspects of Exhibit US-128:

(b) Does the US agree with the statement in paragraph 135 of Brazil's 28 January 2004 comments on US responses to questions that the difference between the \$1,148 billion in the chart at para. 165 of Brazil's 11 August answers to questions and the \$666 million amount in Exhibit US-128 (\$1.75 billion) closely corresponds to the total "Claims rescheduled" figure reported by the US in Exhibit US-128 (column F)?

1. The United States first notes that Exhibit U.S.-128 portrays data on a cohort basis. The figures in Brazil's chart are on a fiscal-year basis, which do not necessarily correspond to figures on a cohort-basis. In addition, data reflected in Exhibit U.S.-128 commence with the 1992 cohort and end with the 2003 cohort. In contrast, Brazil's chart commences with fiscal year 1993 and ends with fiscal year 2002.

2. Also, as indicated in response to question 264(c),¹ Exhibit U.S.-128 does not reflect the receipt of principal payments under the reschedulings. Exhibit U.S.-148 (column F) reflects approximately \$205 million of principal collected on the reschedulings. As a theoretical matter, such "recovered principal" should be reflected in the budget line 88.40 that Brazil cites in its chart. Accounting research within the U.S. Government suggests, however, that a significant portion of this amount has not in fact been reflected in that budget line.

3. Although the \$1.75 billion number cited in the question and the \$1.637 billion number pertaining to "claims rescheduled" are numerically of the same order of magnitude, for the reasons noted above, a direct comparison between Exhibit U.S.-128 and Brazil's chart is not as appropriate or facile as Brazil would suggest. Nevertheless, as a general matter, the United States acknowledges that the most significant difference between the data reflected in Exhibit U.S.-128 and the data in the Brazilian chart arises as a function of the standard accounting treatment of reschedulings by the Commodity Credit Corporation as no longer constituting an outstanding claim, but in fact a new direct loan.² This is consistent with standard commercial

¹ U.S. Answers to Further Panel Questions Following Second Panel Meeting (February 11, 2004), para. 24

² Under FASAB: Original Pronouncements, Version 3 (01/2004), a "direct loan" is defined as "a disbursement of funds by the government to a nonfederal borrower under a contract that requires the repayment of such funds within a certain time with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. (Adapted from OMB Circular A-11)." <http://www.fasab.gov/pdf/vol1v3.pdf>, p. 1290. Section 185.3 of OMB Circular A-11 defines "direct loan": "a disbursement of funds by the Government to a non-Federal borrower under a contract that requires repayment of such funds with or without interest. The term includes: [. . .] Financing arrangements that defer payment for more than 90 days [. . .]." Exhibit BRA-116 (section 185.3, page 185-6).

practice in accounting for refinancings and reschedulings.³ Such treatment is reflected in column F of Exhibit U.S.-128.

³ In a routine case, a lender upon rescheduling or refinancing a loan would extinguish the prior loan because payments are no longer due on the original schedule. The lender simultaneously would book the new rescheduled loan as the asset (receivable) pursuant to the terms of which payments would be received. Perhaps the most familiar illustration of this type of transaction is a home mortgage refinancing where the applicable interest rate and maturity are changed from the prior mortgage loan. Upon consummation of the refinancing, the original note and mortgage are deemed paid, and the new loan and its terms are booked as the new loan receivable.