MALAWI'S COTTON TRADE

Riding The Coattails Of The Cotton-4

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Abstract

Cotton has proven to be quite a divisive issue in the World Trade Organisation ("WTO") following the launch of Benin, Burkina Faso, Mali and Chad's campaign in 2003. The four countries, later dubbed 'the Cotton-4,' sought to bring the WTO's attention to the dire effects that the subsidies being provided by developed countries to their cotton industries were having on the African nations' economies. What initially started as a campaign solely by the Cotton-4 has now evolved to include the plight of all least developed countries ("LDCs") whose economies rely, to a certain extent, on cotton.

Cotton is Malawi's fourth largest export behind tobacco, tea and sugar. It was identified in Malawi's Growth and Development Strategy and Malawi's National Export Policy as a priority crop that could lead to an increase in Malawi's overall exports. However, despite these facts, Malawi's cotton production and export levels have been dropping steadily. Thus, an assumption can be made that Malawi should have benefitted from any changes in the WTO that positively affect the cotton industries of the Cotton-4 and other LDCs. The paper is an examination of that assumption and shall ask the main question 'How, if at all, has Malawi's cotton industry benefitted from the Cotton-4's campaign?' It considers the different cotton initiatives that the WTO has embarked on and determines whether there has been a positive spill-over effect into Malawi's cotton industry.

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I. Introduction

There is a Burkinabe proverb that goes, 'The ants said to themselves: Let us unite, we will succeed in moving the elephant.' In 2003, Burkina Faso, Benin, Mali and Chad embodied the proverb and came together and launched a campaign in the World Trade Organisation ("WTO") to bring attention to the dire effects of the 'cotton situation' on their economies in the hope of bringing about change for the better. With cotton being a highly relied on source of export earnings and foreign exchange for all four countries, any ripples in the global cotton market result in waves in their economies. Now, two decades since these countries, later dubbed 'the Cotton-4,' ("C4") launched their campaign, there is need to ascertain if the situation has changed, not only for them but for other cotton producing developing countries like Malawi. Further, if things have changed, have they done so for the better?

This paper seeks to examine the WTO's response to the C4's campaign launched in 2003 and any ripple effects that it has had on Malawi's cotton industry. It advances one main argument- that the numerous interventions undertaken at WTO level have had little to no effect on Malawi's cotton trade because other external factors have either negated them completely or had a bigger impact. In doing so, the paper shall first provide a background of the 'cotton situation' highlighting the progress made by the C4 in their campaign and major events that have taken place in the WTO with regard to the crop. Thereafter, the paper shall dive into the history of cotton in Malawi before finally assessing the benefits that have accrued to both the C4 and Malawi.

II. Evolution Of The Cotton Initiative In The Wto And C4'S Progress

This part of the paper shall be a summary, in chronological order, of the events that have taken place in the WTO since the C4 launched their campaign and the progress that they have achieved.

The President of Burkina Faso's 10th June 2003 speech is often lauded as the beginning of the C4's campaign when in actuality, it had begun a few months earlier when they presented the 'Sectoral Initiative in Favour of Cotton'[1] to the Committee on Agriculture in Special Session. In the initiative, the C4 reminded the WTO members of the commitments they made to abide by market-based price determination of

1 Special Session for the Committee on Agriculture, *Joint Proposal by Benin, Burkina Faso, Chad and Mali: Poverty Reduction: Sectoral Initiative in Favour of Cotton,* WTO Doc. TN/AG/GEN/4 (May 16, 2003).

all goods and in doing so, eliminate price distorting subsidies and practices. They lamented at the fact they had gone ahead and eliminated the subsidies in their agricultural sector but, much to their dismay, most developed countries did not do the same. While the impact of the continued subsidies affected their whole agricultural sector, the effects on cotton specifically were amplified given the importance of the crop to the economies of the C4. Thus, they called for two main things: firstly, that a decision be adopted that would provide for the substantial and accelerated reduction of the subsidies offered by the developed countries in relation to cotton. That decision would have to be reached soon and it was proposed that it be included in the agenda of the next Ministerial Conference which was set to be held in September of that same year in Cancun, Mexico. Secondly, until the cotton support measures were fully eliminated, they called for the cotton producing developed countries to compensate the C4 to off-set the income they were losing due to the cotton support measures in place. The compensation was to be reduced annually in proportion to the reductions being made on the cotton support measures. These two proposed actions, though rephrased and paraphrased over the years, are the core request of the C4's campaign.

Regardless of how the campaign would progress and of whatever other players existed in the background, four least developing countries ("LDCs") raising an issue at such a level in the WTO was, in of itself, an impressive feat. The C4 were strategic by, not only forming a coalition, but also realising that the negotiation route would be better suited for this campaign than the dispute settlement system ("DSS"). Interestingly enough, though the DSS inherently poses financial and technical obstacles for many LDCs, the plethora of international partners at the C4's disposal meant that this would not have posed an issue in this specific instance.[2] Further, the C4 risked losing the dispute altogether and, if they had won, risked dealing with a losing party who failed to implement the Panel's recommendations. Ultimately it was the risk of political and diplomatic ramifications of a dispute with the United States ("US") that steered them away from the DSS. However, it has also been suggested that another reason that the C4's campaign was not dead-on arrival was due to them framing themselves as 'competitive victims.'[3] The 'victim' aspect derives from their highlighting the effect of the developed countries' subsidies on the C4's economies and development. However, what differentiated the campaign from other campaigns launched by the global south was the repeated focus on the competitiveness of the C4's cotton on the world stage

2 Manfred Elsig & Philipp Stucki, *Low-Income Developing Countries and WTO Litigation: Why Wake up the Sleeping Dog?,* 19 REV. INT'L POL. ECON. 292, 302-303 (2012).

3 Matthew D. Eagleton-Pierce, *The Competing Kings of Cotton: (Re)framing the WTO African Cotton Initiative,* 17 NEW POL. ECON. 313, 319 (2012).

due to its high quality and low production costs.[4] This was in contrast with American's artificial competitiveness derived from the immense government support and made the campaign very hard to ignore.[5]

The Cancun Ministerial conference was held a few months after the June 2003 speech and the C4 also addressed the other members and asked for the cotton issue to be included on the agenda. At the end, no decision was reached at Cancun on the matter with the members failing to agree on how compensation should be paid and on whether the issue was to be handled as a specific question or under the three pillars of agriculture.[6]

The year 2004, however, saw the C4 make some progress. In August 2004, the WTO adopted the 'August 2004 Framework: Export Subsidies and Competition' and under it, established the Cotton Sub-Committee which was a body specifically meant to deal with cotton in the agriculture talks. While, the Cotton Sub-Committee has been instrumental in keeping the cotton issue on the WTO's agenda and, for the first few years after its establishment applied pressure on to the USA, years went by without it carrying out any significant work leading some to conclude that 'it has largely remained a defunct vehicle.'[7] The next year, at the Hong Kong Ministerial Conference in December 2005, a decision was adopted proclaiming that 'all forms of export subsidies for cotton will be eliminated by developed countries in 2006.'[8] The 2006 deadline was missed and what followed can only be described as a lull in the campaign that lasted years in which no significant steps were taken for a number of years.

By 2013, the world of cotton subsidies had changed from what it was in 2003. The US and the European Union ("EU"), the biggest subsidisers in 2003, had reduced their subsidies with the US' payments to its farmers declining and the EU eliminating its worst sort of subsidies.[9] Self-declared developing countries like China and India, however, had now emerged as the biggest subsidisers. This meant that while the C4's had initially primarily targeted the US and the EU, their campaign had to

4 *Id.* at 321.

5 Karen Halverson Cross, *King Cotton, Developing Countries and the 'Peace Clause': The WTO's US Cotton Subsidies Decision,* 9 J. INT'L ECON. L. 149, 159 (2006).

6 The three pillars of agriculture include market access, export subsidies and domestic support.

7 Eagleton-Pierce, *supra* note 4, at 330.

8 World Trade Organization, Ministerial Declaration of 22 December 2005, WTO Doc. WT/MIN(05)/DEC (2005).

9 Kristen Hopewell, *Global Power Shifts and the Cotton Subsidy Problem: How Emerging Powers Became the New Kings of Cotton Subsidies,* 4 GLOB. STUD. Q. 1, 2 (2024).

expand to the 'emerging powers' who now played a huge role in setting the global price of cotton. The emerging powers' insistence on being considered developing countries under the WTO, a tactic used to escape the same level of scrutiny and strict compliance that the developed countries were subject to, made the C4's work that much harder. Worse still, these new players were less than forthcoming in providing details of their subsidies to the WTO. Thus, the C4 called for increased transparency and accountability on their parts. 2013 also brought with it the Bali Ministerial Conference Decision ("the Bali Decision") in which the WTO members agreed to hold bi-annual dedicated discussions under the Committee on Agriculture in Special Session to address any trade related developments across the three agricultural pillars in relation to cotton. These bi-annual dedicated discussions were dubbed 'cotton days' and from them emanated the 'Evolving Table on Cotton Development Assistance.' This was regarded as a sure victory on the C4's part as the document serves as the WTO's main document for tracking developments and exchanging information on development assistance provided to developing countries in regard to cotton thus streamlining the discussion further. However, due to a deadlock in the WTO over India's refusal to sign a multilateral trade facilitation agreement for fear of how it would affect its right to provide certain subsidies and stockpile food, it was almost a full year before the Bali Decision was fully put into action by the members. In the face of this and falling cotton prices, the C4 made a plea for members to take negotiations seriously and expedite them.

Then came the 2015 Nairobi Ministerial Conference ('Nairobi Decision') on Cotton which started by acknowledging the lack of progress made by the WTO on the cotton front.[10] The decision provides for the cotton issue to be addressed in two components, the trade component and the development component. The trade component is then split into three parts mimicking the three pillars of agriculture. Under market access, the decision stated that those countries 'declaring themselves able to' should grant duty free and quota free access to cotton and approved cotton related products from cotton LDCs from 1st January, 2016[11] and those that cannot should 'consider possibilities for increased import opportunities for LDCs from 1st January 2016.'[12] Under export competition, the decision makes reference and adopts a parallel decision reached at the same ministerial conference on export subsidies.[13] The other decision,

10 World Trade Organization, Ministerial Declaration of 19 December 2015, WTO doc. WT/MIN(15)/46 (2015).

11 *Id.* at ¶1.1.2, 1.1.4.

12 I*d.* at ¶1.3.

13 World Trade Organisation, Ministerial Declaration of 19 December 2015, WTO Doc. (WT/MIN(15)/45/WT/L/980 (2015).

dealing with export subsidies generally, made specific mention of cotton and stated that all export subsidies with regard to cotton were to be eliminated immediately by the developed countries immediately upon adoption of the decision and no later than the end of 2017 by developing countries.[14] Though some progress has been made in implementing the Nairobi Decision, it still has not been fully implemented to this day. Members have had disagreements about how to implement certain aspects of the decision with others questioning whether such a decision can be regarded as legally binding anyway.[15] Consequently, members have still failed to address and resolve the issue of trade distorting support given by members to their cotton industries.[16]

In December 2017, pursuant to another commitment made in the Nairobi Decision to identify and examine market access barriers including tariff and non-tariff barriers for cotton, the WTO, in collaboration with the International Trade Centre launched the Cotton Portal. It 'provides a single entry point for all the cotton-specific information available in WTO and ITC databases on market access, trade statistics, country-specific business contacts and development-assistance related information, as well as links to relevant documents and webpages.'[17] Two years later in 2019 the WTO, at the initiative of the C4, launched World Cotton Day on 7th October with one of the objectives being the engagement of donors and beneficiaries and the strengthening of development assistance for cotton.

In 2020, Covid-19 devastated the cotton industry and the C4 urged that an information session be held to understand the socio-economic impact of Covid-19 on the cotton value chains. The C4 stated that seventy percent of their cotton produced in 2020 was stuck in their 'factories, transit hubs or ports, and weather conditions were severely affecting the quality of the fibre too.'[18] The C4 succeeded in having the Covid-19 and cotton included as a permanent agenda item for the Committee on Agriculture in Special Session. In 2022 the WTO and the Fédération Internationale de Football Association ("FIFA") entered into a memorandum of understanding under which the WTO and FIFA would work together to develop and enhance the participation of the C4 and cotton producing LDCs in global football apparel value chains.

14 *Id*. at ¶12 (whereas export subsidies on other products were supposed to be eliminated by the end of 2018 by developing countries)

15 Dennis Muhambe, *The Paradox of the Nairobi Ministerial Decision on Export Competition: Lessons for the Future,* 13 GLOB. TRADE & CUSTOMS J. 49, 53-55 (2018).

16 U.N. Director-General, *Implementation Of The Trade-Related Components Of Cotton,* WTO Doc. WT/MIN(24)/10 (Feb. 16, 2024).

17 Cotton Portal, *https://www.cottonportal.org/cotton/* (last visited June 30, 2023).

18 Special Session of the Committee on Agriculture, *Report on Information Session on Covid-19 and Cotton: From Facts to Solutions,* TN/AG/SCC/W/34 - WT/CFMC/W/82 (Oct. 19, 2020).

However, the C4's campaign rages on. Despite calls for the lowering of domestic support in the cotton sector, a fully-fledged reform of the industry has not occurred. As it stands, members are being urged to work together to ensure that the 13th Ministerial Conference (M13) can result in concrete results on the cotton issue.

III. Malawi And Cotton

a) History of Malawi's Cotton Industry

Malawi's economy is heavily dependent on agriculture and agricultural exports. Agriculture accounts for thirty-one per cent of the country's Gross Domestic Product (GDP) and yet, it employs seventy-six per cent of the workforce.[19] Throughout Malawi's history, changes in government policies and regimes have disproportionately affected the agriculture sector in Malawi.

Malawi was under single party rule from 1964 to 1994. This period was characterised by state owned or controlled enterprises being the major player in all industries. This went hand in hand with the provision of significant government support to its citizens in an effort to ensure that Malawians had access to food, clothing and shelter. Accordingly, the government provided input subsidies for both cash crops like cotton and food crops such as maize to assist smallholder farmers with the purchase of farm inputs such as seeds and fertiliser. In 1963, the legislature enacted the Special Crops Act.[20] Under this statute, crops designated as 'special crops' would be subject to government intervention in their cultivation and marketing. Only persons with licenses authorising them to do so could take part in the growing, buying, selling or bartering of special crops.[21] Cotton and other cash crops such as tobacco, tea, coffee and sugar were amongst some of the crops designated as special crops. The buying and selling of cotton and cotton inputs was done mostly by one parastatal institution, Agricultural Development and Marketing Corporation ("ADMARC"), which would not only supply the inputs to cotton farmers but also act as their main buyer to ensure that there was always a market for them.

However, in the 1980s and 1990s, pursuant to the structural adjustment programs foisted upon it by the World Bank and the International Monetary Fund ("IMF"), Malawi embarked upon a market liberalisation scheme. The scheme sought to entice

19 U.N. Conference on Trade and Development, *Feasibility study on the development of cotton by-products in Malawi,* UNCTAD/TCS/DITC/INF/2022/5 (2022) (hereinafter 'UNCTAD').

20 Special Crops Act, Cap. 65:01, L.R.O. 1/2018, (1963) (Malawi).

21 *Id.* at § 6(1).

private entities to partake in industries such as agriculture and to lower state funding of parastatals.[22]These moves were a shift away from the African ideal of *umunthu* and were an 'adoption of neo-liberal ideology and individualistic developmental approaches'[23] as the government was essentially moving away from its paternalistic role that had come to define the single-party era. The structural adjustments brought in by the World Bank and IMF were not well received by most Malawians as they were seen as exacerbating the poor people's poverty and enriching the rich.[24] Their fears were warranted because by the 1990s, the cotton market largely consisted of smallholder farmers but was run by larger private entities which formed a quasi-cartel that manipulated pricing to suit them and this, in turn, affected the farm gate prices.[25] ADMARC was essentially stripped of its mandate and ceased to provide support in the form of input subsidies to cotton and other cash crops.

b) Malawi's Cotton Industry Now

In 2013, the Cotton Act[26] was passed into law and commenced the following year. The statute establishes the Cotton Council of Malawi ("the Council") which has the power to, inter alia, advise the government on matters of policy to do with cotton and monitor different cotton stakeholders such as growers, buyers and ginners.[27] Further, the Council also has the power to grant licenses to ginners, buyer, sellers and exporters of cotton seeds, seed cotton and cotton lint.[28] The Cotton Act also puts restrictions on the cotton seed varieties that can be sold or grown in Malawi by stipulating that only seed varieties authorised by the Minister of Agriculture shall be allowed.[29] Despite commencing in 2014, aspects of the statute especially in regard to the Council's mandate are still not fully operational to this day due to the lack of human resource and capacity.[30] What you essentially have in practice then is an industry that is only regulated on paper while it is being held hostage by the larger and richer ginners which do not represent the majority interests.

22 Andrew Comstock, Todd Benson, et al., *A Critical Review of Malawi's Special Crops Act and Agriculture (General Purposes) Act,* INT'L FOOD POL'Y RSCH. INST. DISCUSSION PAPER 01792 (2019).

23 Chance Chagunda, *Development Aid, Democracy and Sustainable Development in Malawi – 1964 to Date,* 41 CADERNOS DE ESTUDOS AFRICANOS 153, 156 (2021) (Port.).

24 Julius O. Ihonvbere, *From Despotism to Democracy: The Rise Of Multiparty Politics In Malawi,* 18 THIRD WORLD Q. 225, 227 (1997).

25 Gift Wasambo Kayira & Paul Chiudza Banda, *The Cotton Industry and the Struggle to Arrest Poverty in Malawi: A Historical Stocktaking,* 22 MALAWI J. SOC. SCI. 29, 42-43 (2023).

26 Cotton Act, Cap. 65:04, L.R.O. 1/2018 (2014) (Malawi).

27 *Id.* at §11.

28 *Id.* at §12.

29 *Id.* at §20.

30 UNCTAD, *supra* note 20, at 14.

Malawi also has a Cotton Development Strategy 2019/20-2023/24 ("MCDS") which is a medium-term strategic framework for the cotton sector meant to be implemented within a five-year period. The current MCDS is a follow up to the previous strategy which was in effect from 2011 to 2016. MCDS has five main pillars, one of them being, 'Trade Competitiveness and Market Development.'[31] Under this pillar, the goal is to increase the volume and value of cotton and cotton products for domestic and international markets by forty percent by 2024.[32] Cotton was also identified in Malawi's 2020 Growth and Development Strategy and Malawi's National Export Strategy as a priority crop that could lead to an increase in Malawi's overall exports.

At present, cotton is Malawi's fourth largest export behind tobacco, tea and sugar. However, despite such a seemingly robust framework, cotton production continues to decline steadily. At the time of the launch of MCDS in 2019, the number of smallholder cotton farmers had declined to 100,000 from the historic average of around 250,000 and yields have stayed at the very low average of 200 to 300 kilograms per hectare.[33] According to the Malawi government, the cotton industry faces several challenges including low public and private investment in the sector, weak cotton farmer organisation, lack of structured markets and climate change.[34] Despite the fact that it is aware of the lack of support the industry received, the government has done very little support to the cotton sector to facilitate both production and exportation of cotton. This is indicative of the value placed on cotton by not only the Malawian Government but the Malawian people as well. As Malawi's economy worsens, focus has been placed on food crops for the poor with cash crops being regarded as the domain of the wealthy. There have been two notable exceptions to this, however.

Firstly, the government tried to support smallholder cotton farmers through the provision of vouchers that granted them input subsidies to enable them to buy inputs such as seeds and fertiliser at a cheaper cost through the Farm Input Subsidy Programme ("FISP") in the 2006/7 and 2011/12 growing seasons.[35] However, the initiative was short-lived due to scarcity of cotton seed and the general disinterest in cotton by many

31 The other pillars include Production and Productivity, Research, Technology Generation and Dissemination, Policy and Regulatory Environment and Institutional Development and Capacity Building. *Malawi Cotton Development Strategy 2019 to 2023,* Ministry of Agriculture Irrigation and Water Development (2019) (Malawi).

32 *Id.*

33 *Id.* at 5.

34 *Id.* at 14.

35 Ephraim Chirwa & Andrew Dorward, *Agricultural Input Subsidies: The Recent Malawi Experience* 93 (Oxford University Press 2013).

smallholder farmers. When one considers the lack of strong government regulation in the sector due to the Council's weakness, the cartel like behaviours of the ginners and the fluctuating prices of cotton, it is no wonder many farmers refused to be involved in the cotton industry. Consequently, though FISP is still operational in Malawi today, it no longer applies to cash crops such as cotton and is solely focused on food crops such as maize and legumes which still hold the farmers' interest. Another attempt at boosting the sector was through the Cotton Production Up-scaling Model (2011-2014). Through it, government injected the equivalent of ten million dollars in the cotton sector in 2011 and 2012 to assist smallholder farmers which resulted in a tremendous rise in cotton production in the initial years of the model.[36] However, there has not been any significant government support to the cotton sector since then.

IV. Success Of The Cotton-4'S Campaign

In order to evaluate whether or not Malawi has benefitted from joining the campaign, one needs to first ascertain whether the pioneers of the campaign have even benefitted. Thus, this part of the paper addresses the question, 'Have the C4 succeeded in their campaign?' On the outset, it must be noted that answering the question is not that simple. Indeed, the mere posing of the question in such simplistic terms is an oversimplification of a very complex situation with many factors at play. However, in attempting to answer the question, this article goes to the heart of the C4's campaign and considers the two main things that the C4 has been asking for since they launched the campaign twenty years ago. These are for the developed countries to reduce, with the goal to totally eliminate, export subsidies in their cotton sector and for the developed countries to compensate the affected LDCs in the meantime. This section is, therefore, divided into two parts with each part addressing each request.

a) Elimination of Export Subsidies by Developed Countries
   i) The United States and the European Union

36 *Id.* at 95.

37 John Baffes, The "Cotton Problem", 20 WORLD BANK RSCH. OBSERVER 109, 119 (2005).

38 Kevin Watkins & Jung-ui Sul, Cultivating Poverty: The Impact of US Cotton Subsidies on Africa, OXFAM (Sep. 5, 2002) https://oxfamilibrary.openrepository.com/bitstream/handle/10546/114111/bp30-cultivating-poverty-050902-en.pdf;jsessionid=45E541541BB9E66F687B42837DDBF8F5?sequence=1.

39 Appellate Body Report, United States – Subsidies on Upland Cotton, WTO Doc. WT/DS267/AB/R, (adopted Mar. 21, 2005).

The European Union (EU) began providing support to cotton farmers in 1981 after Greece joined the EU while the US had begun subsidising cotton in 1995.[37] The subsidies have taken various forms such as direct payments to farmers or producers, ad-hoc emergency payments, export credit guarantees and crop insurance.[38]

When the C4 began their campaign, the US was the largest provider of subsidies to their cotton industry. However, in 2002 Brazil brought a complaint before the WTO against the US.[39] The case, also discussed briefly later on in this paper, did not initially result in an overwhelming reform of the cotton industry as was hoped for due to the US' delaying tactics through its refusal to implement both the Panel and Appellant Body's recommendations. This meant that it continued to subsidise its industries for years after the commencement of the case. Further, the case resulted in the entry into a Memorandum of Understanding (MOU), by the US and Brazil which primarily only benefits Brazil in terms of payments. However, under the same MOU, the US agreed to eliminate certain controversial subsidies such as the "Step 2 Payments"[40] and export guarantees[41] from their cotton subsidy system either through legislation such as the 2014 Farm Bill or voting by in the House of Representatives. Unfortunately, both the 2014 and the 2018 Farm Bill (currently in force) still provided for federal insurance schemes to protect cotton producers from price drops or payments to carry out the same function such as the Agriculture Risk Coverage Payments and Price Loss Coverage ("PLC"). More concerning, however, is that the American cotton industry is set to push for more government support under the 2023 Farm Bill to be passed in December, 2023 which could undo much of the ground gained through the case.

In the EU, on the other hand, only two countries produce cotton on a significant level thus, EU's market share is very small compared to the other developed countries that are major cotton producers and yet they are a leading voice in terms of the global cotton price. Since 1981, the EU cotton subsidy regime has only been reformed once, in 2006. In its reform the EU shifted sixty-five percent of the support it gives to decoupled payments meaning that instead of tying payments to production level or market conditions, the EU would make income transfers at a fixed rate.[42] At present, cotton farmers receive decoupled income support (known as cross compliance) for respecting strict standards of environmental protection, animal welfare and food

40 *Id.* (Payments/certificates to eligible producers when certain market conditions existed that exceeded the US benchmark).

41 *Id.* (Credit provided by the US government to either importers or exporters of cotton to facilitate trade).

42 *Agriculture and Rural Development (Cotton),* European Union. https://agriculture.ec.europa.eu/farming/crop-productions-and-plant-based-products/cotton_en.

safety.[43] They also receive cotton-specific support on the condition that the cotton is farmed only on authorised land, authorised seed varieties are used and the harvested cotton is of the approved quality.[44] It should be noted that the EU denies the fact that these domestic support measures qualify as export subsidies. This argument relies on the fact that the EU does not use exportation or production as basis for the support. However, regardless of their motivation, it has been shown that the immense support given by the EU cushions their farmers and allows them to keep their prices low and in turn, contributes to keeping the global cotton price low.[45]

ii) Other Cotton Producers (the Emerging Powers)

The other main cotton exporters are China, India and Brazil though when considering their market share, still calling them emerging is a misnomer.

For the last decade China has held an average of twenty-five percent of the market share when it comes to cotton exports and it has overtaken the US as the main subsidiser of cotton.[46] Despite a WTO Panel finding that China was providing subsidies above its prescribed *de minimis* level of eight point five percent on products such as rice and wheat,[47] China consistently provided support to cotton between eleven and eighteen percent between the years 2011 and 2020.[48] One of the main reasons that China has been reluctant to lower its subsidies is due to the fact that, under the WTO system, it identifies as a developing country and, according to it, should not be forced to eliminate subsidies the same way that developed countries have.[49] India's position is similar and it has been able to use this ground as a way of avoiding penalty for its public stockpiling programmes which would have otherwise been deemed trade distortive. However, in 2018, the US submitted counter-notifications to the WTO Committee on Agriculture in relation to India.[50] The US claimed that India was underreporting the support given to its cotton farmers and that, in actuality, India's support exceeded the ten percent *de minimis* level prescribed for developing countries. The matter went

43 *Id*.

44 *Id*.

45 Baffes, *supra* note 38, at 119-122.

46 Xinyao Wang, Dan Li, et al., Current Situation and Optimization Countermeasures of Cotton Subsidy in China Based on WTO Rules, 12 AGRIC. 1245, 1248-1250 (2022) (hereinafter "Countermeasures").

47 Panel Report, China – Domestic Support For Agricultural Producers, WTO Doc. WT/DS511/19 (adopted Apr. 26, 2019).

48 Countermeasures, *supra* note 47.

49 Kristen Hopewell, Heroes of the developing world? Emerging powers in WTO agriculture negotiations and dispute settlement, 49 J. PEASANT STUD. 561, 564 (2022)

50 Special Session for the Committee on Agriculture, Communication from the United States: Certain Measures of India Providing Market Price Support to Cotton, WTO Doc. G/AG/W/188 (Nov. 9, 2018).

on to be heard by the Panel. India argued that due to its developing country status, it should be able to rely on the special and differential treatment under Article 27 of the Agreement on Subsidies and Countervailing Measures which would have allowed it to continue providing the subsidies even if they were found to be prohibited.[51] However, the Panel found that India had graduated from that bracket and could no longer rely on it. The implications would have proven to be very important in the long run as it is likely they could have been easily applied to the other emerging powers who also declare themselves as developing countries. However, the Panel's decision was never adopted as the US and India reached a mutually agreed resolution instead.[52]

Brazil is one of the very few developing countries that have been able to navigate the WTO system to its immense advantage and the best example of this lies in the aforementioned US-Upland Cotton matter. In 2010, Brazil entered into a preliminary MOU and Framework with the US under which the US was supposed to pay a total of $147.3 million to an annual fund to a newly created 'Brazilian Cotton Institute' to provide technical assistance and capacity building for Brazil's cotton sector.[53] By the conclusion of the dispute in 2014, the US had paid '$450 million over three years under the interim agreement and an additional $300 million to conclude the dispute.[54]

b) Compensation

As mentioned above, the cotton issue is split into two components and the issue of compensation has been put into the development component. This component is dealt with under the Director General's Consultative Mechanism On Cotton (DGCFMC) under which the WTO and its members work with other development partners such as the World Bank (WB), International Trade Centre (ITC) and Food and Agriculture Organisation (FAO) to provide development assistance to the cotton sector in developing countries. The assistance falls into two broad categories, namely, cotton specific development assistance and, secondly, general agriculture and infrastructure development assistance under which cotton might be included. While the actual form that the assistance takes is varied, most takes the form of capacity building support for cotton farmers, technical support to the governments and support for purchase of inputs (e.g. microfinance facilities).

51 Panel Report, *India — Export Related Measures,* WTO Doc. WT/DS541/7 (Oct. 31, 2019).

52 Notification of A Mutually Agreed Solution, *India — Export Related Measures,* WTO Doc. WT/DS541/8 G/SCM/D119/1/Add.1 (July 18, 2023).

53 Framework for a Mutually Agreed Solution to the Cotton Dispute, *United States – Subsidies on Upland Cotton,* WTO Doc. WT/DS267 (Aug. 25, 2010).

54 Hopewell, *supra* note 50.

The C4 have been significant beneficiaries under both categories of assistance. Under the cotton specific development assistance, the C4 have benefitted from programmes such as the FAO's *Cotton Farmer's Capacity Building on Integrated Production and Pest Management* and the EU's *West Africa Competitiveness Support Program*.[55] They have also received assistance from individual WTO country members such as under Brazil's *Programme for the Development of the Cotton Sector in Africa* and the Netherlands' *Cotton Value Chain Development Programme.*[56] In terms of general agriculture and infrastructure development assistance, the C4 have benefitted under inter alia, the WB's *Agricultural Productivity and Diversification Programme* and Germany's *Global programme Soil Protection and Rehabilitation for Food Security*.[57]

c) So, Have They Succeeded?

As mentioned at the beginning of this section, the question of whether or not the C4 have succeeded is a complex one. On the one hand, the campaign has had some success. The US and the EU, the original targets of the C4's campaign, have significantly reduced their cotton subsidies or gotten rid of the especially trade distortive ones. All C4 countries have also received major development support towards their cotton industries. On the other hand, some of their efforts have proven futile. The US and EU have been replaced by emerging powers such as China and India who take advantage of their status as developing countries by not only refusing to eliminate certain subsidies but also benefit from development assistance themselves. For instance, China, India and Brazil are all beneficiaries of Switzerland's 'Better Cotton Initiative.'[58]

Further, the structure and procedures of the WTO make the C4's campaign difficult. The trade component of their campaign is primarily reliant on negotiations with other WTO members or groups formed by members. It can take years to achieve desired results through negotiation. Even where negotiation yields favourable agreements, the lack of implementation and accountability on the part of the members renders the decisions moot. In any case, the wording of the decisions themselves makes it hard to hold WTO members accountable. For instance, in the Nairobi Decision, there is a provision for countries to implement aspects of the decision only where 'they declare themselves able to' and to simply 'consider possibilities' and this provides a loophole for many countries to simply choose not to implement it. This undoubtedly speaks to

55 Sub-Committee on Cotton, *Director-General's Consultative Framework Mechanism on Cotton,* WTO Doc. WT/CFMC/6/Rev.34 (5 May 2023) (hereinafter "Consultative Framework").

56 *Id.*

57 *Id.*

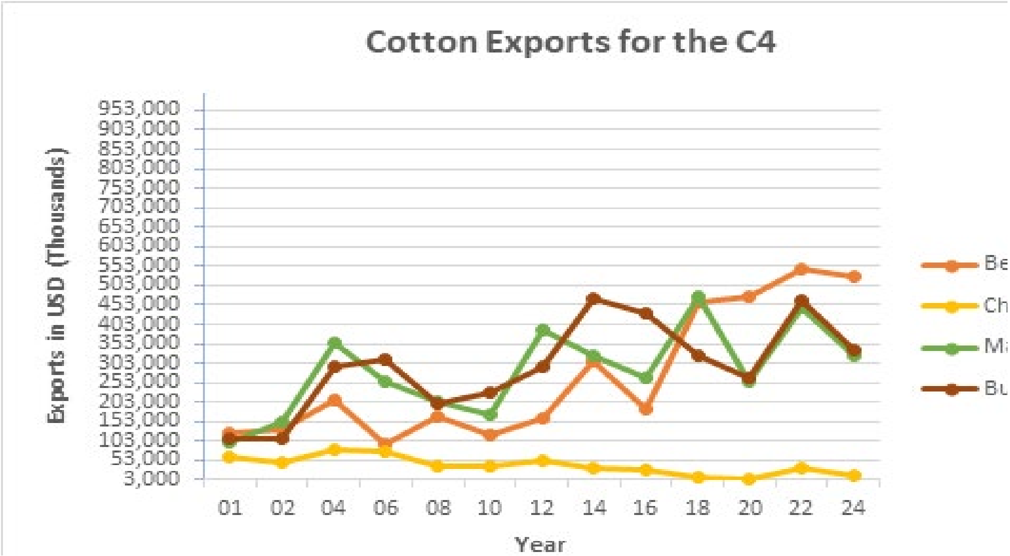
58 *Id.*

a wider problem with the WTO as a whole and not just in regard to cotton. Freedom being one of the most cherished cornerstones of the WTO has resulted in a system which not only fails to quell impunity but actually fosters it and in doing so, only further perpetuates the existing inequalities.

At the end of the day, however, to the C4 and other countries, whatever success is achieved in the WTO sphere only truly matters if it is reflected in the trade numbers. Table 1 below provides for the cotton exports of the C4 since 2001 all the way through to 2022. From these figures it is clear that Benin, Mali and Burkina Faso have experienced unstable cotton exports during the period with their curves dipping and rising drastically and erratically on the other hand. However, despite these erratic movements, the graphs for these three countries have been on an upward slope since 2001 indicating overall and general growth in their exports. For instance, Benin went from exporting roughly $121million in cotton in 2001 to about $525 million in 2024. The remaining country, Chad, has remained consistent in the worst way. Its graph shows little to no movement and any movement has resulted in the graph being on a steady downward slope. The lack of movement in Chad's graph is an indication of the lack of growth in its cotton sector. Chad's exports from 2001 to 2024 went down by $50million in comparison to that of Benin and Mali which went up by over $403million and over $224 million respectively. In contrast to the other C4, Chad has always suffered from relatively low cotton production and export levels to due factors such as low technical knowledge of soil and seeds and access to capital, its ailing cotton industry has also been attributed to the discovery of oil in the country and a shift of priority from cotton to oil.[59]

59 Jean Claude-Nachenga, *Chad: Lessons from the Oil Years, in* OIL WEALTH IN CENTRAL AFRICA (Sharmini Coorey & Bernadid Akitoby eds., 2012)

Table 1: Cotton Exports for the C4 from 2001 to 2024[60]



60 Trade Map, Benin Cotton Exports Statistics, INT'L TRADE CENTRE (August. 2025) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c204%7c%7c%7c%7c52%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1;
Trade Map, Chad Cotton Exports Statistics, INT'L TRADE CENTRE (August. 2025) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c148%7c%7c%7c%7c52%7c%7c%7c2%7c1%7c2%7c2%7c2%7c1%7c2%7c1%7c1%7c1;
Trade Map, Mali Cotton Exports Statistics, INT'L TRADE CENTRE (August. 2025) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c466%7c%7c%7c%7c52%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1;
Trade Map, Burkina Faso Cotton Exports Statistics, INT'L TRADE CENTRE (August. 2025) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c854%7c%7c%7c%7c52%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1

V. Malawi's Benefit From The C4'S Campaign

This part of the paper addresses whether Malawi's cotton industry has experienced any spill over benefits from joining the C4's campaign. The issue shall be considered under the same two heads that the C4's success was measured.

a) Trade Component

Malawi has been a WTO member since 1995 and is a part of several negotiation groups such as the Africa Group, LDCs Group and Landlocked Developing Countries Group. It joined the C4's campaign as part of the Africa Group pretty early on and has been part of negotiations and meetings, where able to, since then. It goes without saying that the reduction of subsidies by countries like the US and EU discussed under Part IV of this paper which count as a success to the C4's campaign, also work in Malawi's favour in the same way that the rise of the emerging powers hurts Malawi. However, the true mark of any successful WTO negotiation is the creation of a bi/multilateral trade agreement. Malawi, through its negotiation groups has been able to enter into several preferential trade arrangements with countries such as the US, the UK and a plethora of other mostly European nations. Most of these agreements, however, are in respect of trade in general and not specifically cotton.[61] When it comes to specifically cotton, aside from the United Arab Emirates and China, the main importers of Malawi's cotton are African countries like Zambia, Tanzania and Mozambique.[62]

The significance of this is that whatever preferential treatment Malawi receives in relation to such cotton trade, is borne out of trade agreements from the regional communities that Malawi is a member of like Common Market of East and Southern Africa (COMESA) and Southern African Development Community (SADC) and not necessarily the WTO. So, while on the face of it, it would appear that the WTO negotiations have yielded fruitful partnerships, most of the ones that actually translate to exports for Malawi have been achieved outside of the WTO sphere.

61 Preferential Trade Arrangements, *List of Malawi's Preferential Trade Agreements*, WORLD TRADE ORGANIZATION (2024) http://ptadb.wto.org/Country.aspx?code=454.

62 Trade Map, *Malawi Cotton Exports Statistics,* INT'L TRADE CENTRE (August. 2025) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c454%7c%7c%7c%7c52%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1.

b) Development Component

Much like the C4, Malawi has received significant development assistance both in term of cotton specific assistance and general agriculture and infrastructure development assistance. Under the cotton specific assistance, Malawi has received various assistance from the ITC working together with other WTO members such as China, Bangladesh and India going towards capacity building in Malawi's cotton industry.[63] Under the agriculture and infrastructure development assistance, Malawi has received assistance from Canada towards the establishment of Farm Radio in Malawi, from Japan for the expansion of small-scale irrigation and the World Bank through its Community Based Rural Land Development Project.[64]

c) Malawi's Cotton Exports Since 2001

Whether all of the trade agreements and development assistance received by Malawi as a result of the C4's campaign have also resulted in an increase in Malawi's cotton export is also a matter that needs consideration. Table 2 shows Malawi's cotton exports since 2002 while Table 3 provides a comparison of Malawi's graph with the C4's.

Malawi's cotton exports have been erratic at best with a sharp spike occurring in the 2011/2012 growing season and then a rapid decline thereafter. This sharp rise coincides with a rise in the domestic support provided by the Malawi government in that growing season through Farm Input Subsidy Programme and through the Cotton Production Up-scaling Model (2011-2014). At the time, Malawi also received cotton specific assistance from other WTO members like Brazil and India under projects that were meant to run from 2012 to 2023 and 2011 to 2018.[65] Had the international development assistance had any significant effect on Malawi's cotton export, then the upward trend would have continued during the subsistence of the development assistance programmes. However, when the Malawi government stopped pumping money into the sector after 2012, Malawi's cotton exports took a sharp nosedive and have been on a sharp decline ever since. Considering the fact that the Malawian government has not provided any support after 2012, one can reasonably assume that it was the two programmes implemented by the government that had the biggest effect on the 2011/2012 spike in exports and not any interventions undertaken at WTO level.

63 Consultative Framework, *supra* note 56.
64 *Id.*
65 *Id.*

Further, it is clear that Malawi's cotton exports have not grown over the years that it has been party to the C4's campaign. For instance, Malawi's cotton exports at 2022 are only $9.3million more than what they were in 2024, an almost negligible amount. When compared to the trends shown by the C4, one can see that the trend of Malawi's graph is similar to that of Chad's in that the different interventions made in the sector have had little effect on the long term.

Table 2: Malawi's Cotton Exports from 2001 to 2024

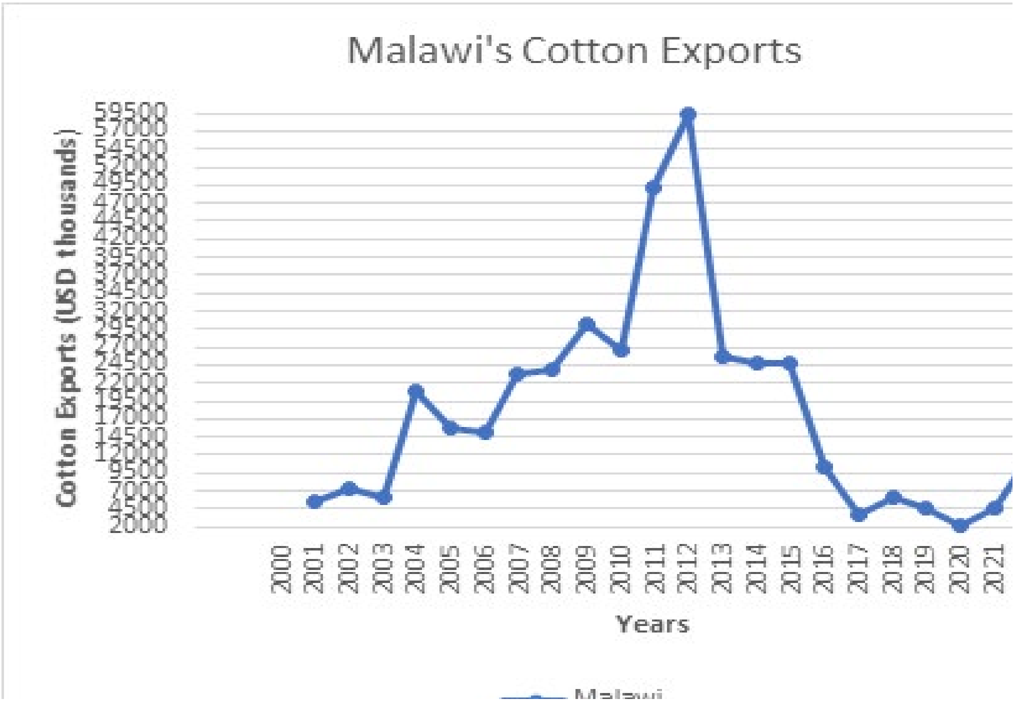
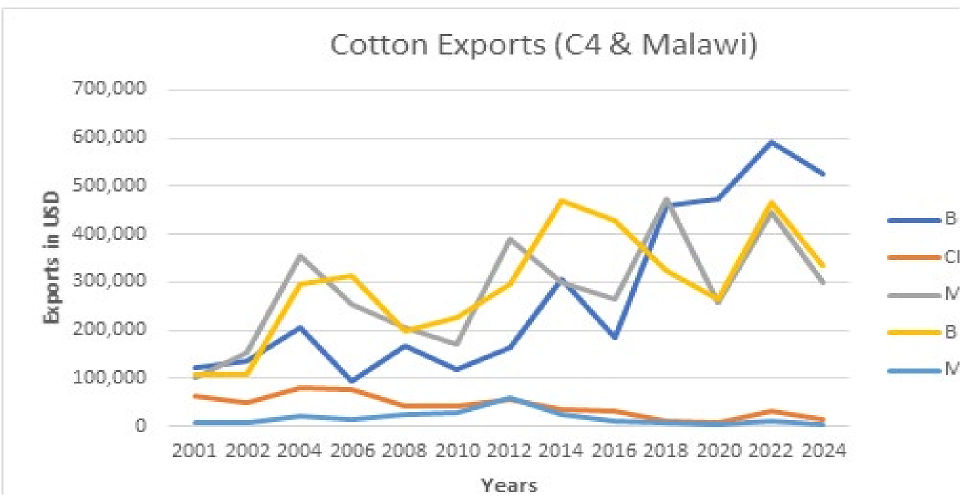


Table 3: Cotton 4 and Malawi's Cotton Exports from 2001 to 2024



d) Confounding Factors in This Research

While it is tempting to look at the figures of Malawi's exports as shown in Table 2 and conclude that the C4's campaign has had little to no benefits in Malawi, it would be improper to do so without acknowledging the confounding factors that exist in this research. Confounding factors can be defined as independent variables which are not the focus of one's research but can have an effect on the phenomena being studied.[66] While the concept is widely used in areas such as medicine and statistics, the principles apply to any research in which a causal link to trying to be established between two variables. Thus, even though we are not able to calculate the actual effect of the confounding factors in this research had on Malawi's cotton exports, it is still important to take note of the other factors that may have affected the exports outside of the C4 campaign.

The first of these confounding factors has already been discussed above and that is the provision of domestic support by the Malawian government. However, another factor that cannot be understated is the effect of Malawi's climate on not only cotton but Malawi's agriculture sector as a whole by resulting in extremely low yields. Malawi has suffered a cocktail of floods and cyclones since 2003 with the most notable being the floods of 2015, Tropical Storm Idai in 2018, Tropical Storm Ana in 2021 and worst of all them, Tropical Storm Freddy in 2023.[67] More often than not, smallholder farmers are not equipped both financially and technically to handle the effects of extreme weather conditions especially when one considers that most of their cotton is rain-fed and not reliant on irrigation.[68]

Another confounding factor that had a global effect on cotton trade and which was raised by the C4 in the WTO is the Covid-19 Pandemic. While Malawi never went on full lockdown, many of its main trade partners like China and the UAE did and accordingly, lowered the level of trade that they carried out in all sectors.

The last confounding factor in this research is what has been dubbed as 'Bankgate' in Malawi. In 2017 the massive defrauding of up to USD 24 million from various commercial banks in Malawi by one of the biggest cotton ginner corporations, Cotton

66 Kantahyanee W. Murray & Anne Duggan, *Understanding Confounding in Research,* 31 PEDIATRICS REV. 124, 124 (2010).
67 *Statement by CDMA on Tropical Storm ANA response operations,* Department of Management Affairs (2022) (Malawi).
68 Vivek Voora, et al., *Global Market Report: Cotton prices and sustainability,* INT'L INST. SUSTAINABLE DEV. (2023).

Ginners Africa Limited came to light.[69] Litigation in respect of this issue was and still is occurring at both criminal and civil level. The local cotton market was shaken as investors became wary of the industry as a whole.

VI. CONCLUSION

The C4 have been the epitome of tenacity and resilience over the course of their campaign however, the system has not provided them with the kind of results that they desire forcing them to keep up their appeals twenty years on from the time they started. Malawi, on the other hand, can be seen to have simply joined the bandwagon that was the C4's campaign. Though arguments can be made about the failures of the WTO in regard to this issue, for instance, by allowing China and India to continue its subsidies, it is clear that Malawi's situation is not merely black and white. When one considers the question that this paper set out to answer, it must be acknowledged at work that it is an intricate system that cannot simply be boiled down into a neatly packaged 'yes or no' answer. However, it can be said with a certain degree of certainty and in consideration of the confounding factors discussed above and the Malawi's government's inability to support the cotton industry, that many interventions that occur at the WTO level are unlikely to trickle down to Malawi's cotton industry. So, while the C4 have generally and rightfully been able to reap the benefits of their campaign, the same cannot be the same for Malawi at the moment.

69 Frank Namangale, *Creditors win 'Bankgate' case,* NATION ONLINE (28 Feb. 2018) https://mwnation.com/creditors-win-bankgate-case/.