



Steering Committee

First Meeting

Monday September 17, 2001 8:30 am
The Secretary General in the Chair

The SECRETARY GENERAL thanked delegates for their support of the ICAC and the government of Zimbabwe for hosting the meeting. He reported that the government of Zimbabwe had nominated Mr. Sylvester R. Nguni, Managing Director of the Cotton Company of Zimbabwe and Chair of the Zimbabwe Organizing Committee to serve as Chair of the 60th Plenary Meeting.

The SECRETARY GENERAL introduced Mr. Paddy Zhanda, farmer and businessman; Mr. W.G. Mashingaidze, Zimbabwe Farmers Union; Mr. Neville Brown, Commercial Cotton Growers' Association; Mr. Guy Menage, Commercial Cotton Growers' Association; Ms. Nancy Zitsanza, Ministry of Lands, Agriculture and Rural Resettlement; Mr. Rob Jarvis, Quton Seed Company; Mr. Michael Davies, Cargill Zimbabwe; Mr. Danny Chipps, Merspin Limited; and Mr. Barry Fisher, National Cotton Council of Zimbabwe, who were to serve as Vice Chairs of the meeting.

The only item of business was to approve the agenda of the meeting. The SECRETARY GENERAL noted that delegates had a copy of the proposed agenda. He announced that the report of the Chair of the Standing Committee and the inaugural comments by Dr. Joseph M. Made, Minister of Lands, Agriculture and Rural Resettlement, would be rescheduled during the week. He said that members of the Standing Committee were experiencing difficulties in traveling to Victoria Falls, and Dr. Made was unavailable this day. He asked if there were comments or additional changes.

Seeing none, the CHAIR concluded that the agenda was approved with the proposed amendments. He adjourned the meeting at 8:45 am.

Second Meeting

4:30 PM, Monday September 17, 2001
Mr. Sylvester Nguni in the Chair

The CHAIR invited the Secretary General to read Working Paper I, "Election of Standing Committee Officers," which is attached. The SECRETARY GENERAL reported that the Standing Committee nominated Mr. Alfonso Liévano of Colombia for the post of Chair of the Standing Committee, Mr. Ajai Malhotra of India for the post of First Vice Chair, and Ms. Chigozie Obi-Nnadozie of Nigeria for the post of Second Vice Chair.

The CHAIR observed that there was a consen-

sus to accept the recommendations in Working Paper I, and he extended his congratulations to the new officers.

The CHAIR invited the Secretary General to present Working Paper II, "The Recognition and Enforcement of Foreign Arbitral Awards," which is attached. The SECRETARY GENERAL summarized the working paper by saying that good trade practices include the settlement of disputes that inevitably arise in commercial transactions through a legal process of arbitration, and that some parties to contracts fail to abide by arbitral decision. The result is defaults on contracts for international trade in cotton. Defaults undermine confidence in the cotton trading system and impose costs that eventually must be absorbed by all participants in the cotton industry. Therefore, in order to bolster confidence in the cotton trading system, to improve the efficiency of the world cotton market and to encourage good trading practices, the ICAC urges member governments to:

- Encourage good trade practices and uphold the sanctity of contracts, and to

- Encourage their industries to abide by both the spirit and the letter of arbitration arrangements and to accept valid arbitration judgments, and to

- Urge governments to make valid arbitral awards enforceable under member countries' laws.

The CHAIR asked if there was opposition to the recommended resolution prepared by the Standing Committee.

The CHAIR observed that there was a consensus to approve the resolutions contained in Working Paper II.

The CHAIR asked the Secretary General to introduce members of the Private Sector Advisory Panel in order to begin a roundtable discussion between the PSAP and the Advisory Committee.

The SECRETARY GENERAL observed that the PSAP was formed in 1999 after three years of discussions within the ICAC. The PSAP is representative of the three major segments of the cotton industry, producers, merchants and spinners, and of both developed and developing countries. Panel members serve at their own expense. Among the members of the Panel are some of the most respected people in the private sectors of the cotton industries of member countries. He introduced Ms. Bridgett Jackson, Mr. Andrew Macdonald, Mr. John Accas, Mr. Suresh Kotak, Mr. Romano Bonadei, Mr. Felix Stiegwardt, Mr. John Arlett, Dr. Sebahattin Gazanfer, and Mr. Ray Butler as members of

the PSAP. He noted that Panel members had elected Mr. Felix Stiegwardt as Chair of the Panel, and he invited Mr. Stiegwardt to lead the discussion.

The Chair of the PSAP thanked the Steering Committee for the opportunity to engage in discussion. He reminded the Committee that the PSAP has presented reports to the Steering Committee at the last two plenary meetings and looked forward to the opportunity for useful dialog at this meeting. The discussion was to focus on four topics: sanctity of contracts, genetically engineered cotton, World Bank development efforts and government measures, he said.

The Chair of the PSAP introduced Mr. Andrew Macdonald who noted that Working Paper II, "The Recognition and Enforcement of Foreign Arbitral Awards," had just been approved. Mr. Macdonald commented that declining prices implied that the sanctity of contracts will come under attack and that it was necessary to reinforce the importance of redoubling efforts to support the sanctity of contracts. He urged governments and the private sector to work together to educate all concerned about the importance of the sanctity of contracts.

The delegate of UGANDA noted that developing countries appreciate resolutions, but that in liberalized markets with willing buyers and sellers governments find it difficult to enforce contracts that they are not party to. The delegate asked that merchants involved in trading write to their governments to ask that laws be enacted to enable the enforcement of arbitral awards.

The Chair of the PSAP said that he appreciated the delegates' thoughts but felt that the New York Convention was sufficient. The delegate of COLOMBIA agreed with the Chair.

Mr. Ray Butler reminded delegates that sanctity of contracts was concerned with the enforcement of foreign arbitral awards and that the New York Convention included such enforcement. Mr. Butler encouraged governments to adopt the New York Convention.

Mr. Suresh Kotak mentioned a model law recommended by UNCITRAL in 1995 whereby all arbitration law was served in a single comprehensive law. He suggested that this could serve as a template to be used by other countries.

The delegate of AUSTRALIA noted that Australia was a signatory to the New York Convention and that it had passed the International Arbitration Act in 1974.

The Chair of the PSAP then introduced Mr. Romano Bonadei and asked him to discuss genetically engineered cotton. Mr. Bonadei explained that the use of genetically engineered cotton was expanding rapidly due to the eco-

conomic benefits to both producers and consumers. He urged governments to approve the use of genetically engineered cotton based on the preponderance of evidence, including reduced pesticide use and lower production costs. He also noted that governments do not allow farmers to grow genetically engineered cotton commercially in Europe and that some textile buyers refuse to accept products made with genetically engineered cotton.

Mr. Kotak was then introduced to discuss World Bank development projects. Mr. Kotak noted that price risk management has become more important and urged education as a means of encouraging greater acceptance.

The delegate of SUDAN wondered if risk management systems were another form of subsidy and asked for further clarification on the definition of risk management. Mr. Kotak said that risk management was not a subsidy and that any country could adopt it.

Mr. Macdonald likened risk management to an insurance policy whereby a farmer could be certain of the price of his crop at the time of planting.

The Chair of the PSAP next moved to the subject of government measures. He referred to Secretariat reports and Working Paper III, "Government Measures and the World Cotton Industry," which is attached. The PSAP reiterated the impact of distortions from government measures and pointed out that subsidies resulted in lower prices to all producers. The ICAC was urged to raise the issue of government measures with the WTO.

The Chair of the PSAP noted that a gradual but steady reduction in subsidies was needed and hoped that this trend would continue until reaching a total elimination of government measures. Referring to Working Paper III, he read the proposed resolutions. The PSAP urged that the stronger of the two resolutions be adopted referring to "major exporting countries."

The delegate of GREECE said that the subject was a serious one that it was not prepared to be discussed in the time available. The delegate thought it sensible to delay further discussion until the next day as had been scheduled.

The delegate of COLOMBIA asked how the PSAP members envisaged negotiators planning a gradual reduction. The Chair said that the PSAP realized that an immediate reduction was unrealistic but rather was looking for a way to gradually reduce subsidies.

The Chair of the PSAP, seeing no other comments, thanked the Steering Committee for the opportunity to discuss these issues with them.

The CHAIR of the Second Meeting of the Steering Committee thanked the PSAP and adjourned the meeting at 5:40 pm.

ATTACHMENTS

Working Paper I

Election of Standing Committee Officers

Recommendation from the Standing Committee

The Nominating Committee met on April 24, 2001 in the office of the Secretariat to propose a slate of officers for the Standing Committee for the coming year. Delegates from Colombia, India, the USA and Zimbabwe and the executive director were in attendance. Mr. Lawrence Blum of the USA was elected as Chair of the Nominating Committee.

The Nominating Committee recommended that Mr. Alfonso Liévano of Colombia be nominated as Chair of the Standing Committee. Mr. Liévano is Commercial Advisor for the Colombian Government Trade Bureau in Washington. He served as First Vice Chair of the Standing Committee and Chair of the Subcommittee on Budget during 2000-01.

The Nominating Committee recommended that Mr. Ajai Malhotra of India be nominated as First Vice Chair. Mr. Malhotra is Minister (Commerce), Embassy of India in Washington. He served as Second Vice Chair of the Standing Committee and Chair of the Working Group on Plenary Meeting Venues during 2000-01.

The Nominating Committee recommended that Ms. Chigozie Obi-Nnadozie of Nigeria should be nominated as Second Vice Chair. Ms. Obi-Nnadozie attended all Standing Committee meetings and participated in the Working Group on Plenary Meeting Venues during 2000-01. She is Minister Counsellor, Embassy of Nigeria in Washington.

The Standing Committee accepted the recommendations of the Nominating Committee at its 453rd meeting.

Accordingly, the Standing Committee proposes the following slate of officers to the Plenary Meeting for the coming year:

—Mr. Alfonso Liévano of Colombia for the post of Chair of the Standing Committee

—Mr. Ajai Malhotra of India for the post of First Vice Chair

—Ms. Chigozie Obi-Nnadozie of Nigeria for the post of Second Vice Chair

Working Paper II

The Recognition and Enforcement of Foreign Arbitral Awards

Recommendation from the Standing Committee

Good trade practices include the settlement of disputes that inevitably arise in commercial transactions through a legal process of arbitration. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention of 1958) requires countries to enforce valid arbitration awards.

The subject of good or fair trade practices, sometimes called contract sanctity, has been discussed often in the ICAC. The matter is of importance to the world cotton industry because each year some parties to contracts fail to abide by arbitral decisions. The result is defaults on contracts for international trade in cotton. According to statistics compiled by the Committee for International Co-operation between Cotton Associations (CICCA), the value of arbitral awards in cotton during the most recent six years is about \$120 million, half of which is still owed by defaulting parties. The average award is approximately \$200,000. Thus, while arbitral awards are often substantial, they are usually within the means of medium-sized firms to fulfill. Defaults undermine confidence in the cotton trading system and impose costs that eventually must be absorbed by all participants in the cotton industry.

Arbitration is a private process that commences with the agreement of parties to submit disputes for decision by an impartial tribunal of recognized arbitrators under the rules of a trade association. Arbitral decisions and awards are final and legally binding on both parties. Arbitration can streamline substantially the process of dispute resolution and thereby contribute to the health of the world cotton economy.

According to information provided to the Committee by representatives of CICCA, defaults on valid arbitration awards occur for many reasons. Some parties to disputes may believe that the panel of arbitrators deciding their case is biased. Dishonesty, weak financial conditions, lack of knowledge or negligence about the law and a lack of knowledge about cotton quality standards may also contribute to the violation of good trade practices. Member trade associations of CICCA acknowledge their obligation to ensure impartiality and to provide training and support to enable all members of the cotton trade to understand fully contract terms, cotton standards and the arbitration process.

In addition, if government support for the enforcement of valid foreign arbitration awards is deemed to be insufficient, parties may be encouraged to default on obligations. For the process of arbitration to be effective, the courts in the countries of all parties involved must enforce valid arbitral awards.

Therefore, in order to bolster confidence in the cotton trading system, to improve the efficiency of the world cotton market and to encourage good trading practices, the Standing Committee recommends that the Advisory Committee urge member countries of the ICAC to:

- Encourage good trade practices and uphold the sanctity of contracts, and to
- Encourage their industries to abide by both the spirit and the letter of arbitration arrangements and to accept valid arbitration judgments, and to
- Urge governments to make valid arbitral awards enforceable under member country's laws.

Working Paper III

Government Measures and the World Cotton Industry

Recommendation from the Standing Committee

The subject of government measures in cotton has been discussed in the ICAC since the creation of the Committee in 1939. Throughout the 1990s, the Committee drew attention to the impact of government measures that distort production and trade in cotton. A number of countries in the ICAC have noted that trade barriers and subsidies in some countries contribute to price volatility and impact adversely the level of cotton production in other countries. Countries have noted that barriers to trade in cotton and cotton textiles hinder economic development, and a number of countries have expressed the view that subsidies lower world cotton prices and cause the burden of adjustment to lower cotton prices to fall heavily on producers in countries with limited government support.

In the early 1990s, the ICAC looked forward to the successful outcome of the Uruguay Round of GATT multilateral trade negotiations and encouraged member countries to actively support efforts to conclude the discussions on agriculture satisfactorily. In 1994, the ICAC noted that the Uruguay Round Agreement did not meet the expectations of all countries, particularly efficient exporting countries. Nevertheless, it was

recognized that the World Trade Organization (WTO) is an effective forum to monitor the Agreement on Agriculture, and member countries were encouraged to observe commitments arising from the Round in order for agriculture to benefit fully from inclusion in the multilateral trading system.

In the late 1990s, after the creation of the WTO, many governments remained concerned that subsidies, particularly production and export subsidies, tariffs and trade barriers distort the world cotton economy. Numerous governments urged the elimination of these practices throughout the whole production, processing and marketing chain. However, governments have noted also that measures affecting the cotton industry often have social purposes or are implemented to encourage good environmental practices or to achieve other beneficial objectives. Therefore, the ICAC recognized that subsidies, tariffs and trade barriers are appropriately addressed in the WTO, and governments expressed the wish that multilateral negotiations in the WTO result in a substantial reduction in measures that distort production and trade. In the 59th Plenary Meeting in Cairns in 2000, the ICAC explicitly asked the WTO to urgently consider the distortions created by subsidies in the cotton market.

Reports by the Secretariat indicate that government measures have an impact on the structure of the world cotton economy. The most recent report by the Secretariat on government measures indicates that the level of direct assistance to production provided by governments amounted to \$3.6 billion in 2000/01. According to the Secretariat, 55% of world cotton production is benefiting from direct income or price support programs in 2000/01, and cotton area in countries that provide direct subsidies to growers increased from 11 million hectares in 1998/99 to 11.7 million in 2000/01. In contrast, cotton area in countries that do not provide direct subsidies to growers declined from 22 million hectares in 1998/99 to 20 million in 2000/01.

At the 454th Standing Committee Meeting, some delegates recommended that the Standing Committee develop a statement condemning domestic policies that distort cotton prices and trade. It was further recommended that the statement should urge WTO negotiators to move forward with constructive proposals to reduce trade and production distorting policies, and that the statement be presented to the plenary meeting for discussion, adoption and communication to the broadest possible audience. The Private Sector Advisory Panel echoed these sentiments during a round table discussion with the Standing Committee in June in Washington. The PSAP noted that governments seek to achieve many valid objectives through the use of measures affecting agriculture and that it is not realistic to expect the immediate elimination of all forms of government measures. Therefore, the PSAP sug-

gested that the ICAC focus its efforts on achieving a gradual but steady reduction in those government measures that directly subsidize increased cotton production.

In response to these instructions, the executive director developed a set of resolutions between the 454th and 455th meetings of the Standing Committee that were contained in Attachment III to SC-N-455 for consideration by the Standing Committee at the 455th Meeting. Attachment III contained the following resolution:

The Standing Committee should recommend that the Advisory Committee urge member countries of the ICAC to:

- Adopt policies to reduce and eventually eliminate, to the extent possible, the negative effects on trade caused by direct government assistance to cotton production and trade implemented by some countries, and to
- Encourage the WTO to urgently consider trade distortions on the world market caused by measures taken by some governments, and to
- Advise their WTO negotiators to move forward with constructive proposals to reduce the trade and production distortions caused by policies implemented by some governments.

Delegates of the USA and Spain supported adoption of the resolutions contained in Attachment III. However, delegates from Brazil, Chad, Egypt and Nigeria felt that the language calling for an end to measures that distort trade in cotton should be strengthened. The delegate of Brazil proposed the following:

The Standing Committee should recommend that the Advisory Committee urge member countries of the ICAC to:

- Adopt policies to reduce and eventually eliminate the negative effects on trade caused by direct government assistance to cotton production and trade implemented by major exporting countries, and to
- Encourage the WTO to urgently consider trade distortions on the world market caused by measures taken by governments of exporting countries, and to
- Advise their WTO negotiators to move forward with constructive proposals to reduce the trade and production distortions caused by policies implemented by the governments of countries that export cotton.

The delegate of the USA noted that there are many governmental policies that have negative effects on trade including export controls, price controls, export restrictions and various forms of import restrictions. He noted that trade-dis-