WTO OKs $295 million in Brazilian sanctions on US

By Bradley S. Klapper
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GENEVA -- American goods will face around $295 million in annual sanctions as a result of the United States' failure to eliminate illegal subsidies to U.S. cotton growers, the World Trade Organization ruled Monday.

The result was disappointing for Brazil, which has won a series of rulings against the U.S. over the last seven years. The Latin American country had sought to target American goods and drug patents for $2.5 billion worth of economic retaliation.

The WTO ruled that the sanctions should vary depending on U.S. payments each year. Arbitrators used 2006 as a base year for the ruling, and said U.S. payments would have to increase significantly for Brazil to be allowed to punish American drug patents.

"The cumulated amount of countermeasures to which Brazil is entitled to is $294.7 million," the WTO said in a two-part ruling totaling 269 pages.

Washington had argued that the award should not exceed $30 million.

"While we remain disappointed with the outcome of this dispute, we are pleased that the arbitrators awarded Brazil far below the amount of countermeasures it asked for," said Carol Guthrie, spokeswoman for U.S. Trade Representative Ron Kirk.

Guthrie said the U.S. was also pleased that the WTO rejected Brazil's request for "unlimited" sanctions on U.S. patents and trademarks, and for a one-time award of $350 million in penalties for a subsidy Washington has already repealed.

Monday's ruling was the fifth major decision since the Brazilian government brought the case to the WTO in 2002, alleging that the U.S. was able to retain its place as the world's second-largest cotton producer by paying out some $3 billion to American farmers each year. China is the largest exporter of cotton, while Brazil is fifth.

The WTO's condemnation of the U.S. in September 2004 was seen as a victory for Brazil and for West African countries that claimed to have been harmed by the subsidies. Three decisions since have confirmed that U.S. support programs unfairly help U.S. producers undersell foreign competitors and depress world market prices, dealing a double blow to cotton growers in Brazil and elsewhere.

In response to the legal defeats, the U.S. Congress has scrapped some export credits and in 2006 repealed the "Step-2" cotton-marketing program that made payments to exporters and domestic mill users as compensation for buying higher-priced American cotton.

But last year it approved a new farm bill worth nearly $300 billion that left a number of other contentious cotton programs intact.

"Few WTO disputes have been as difficult - or as politicized - as the fight over U.S. cotton subsidies," says Brendan McGivern, a partner at White & Case law firm in Geneva who represented cotton-growing nations Benin and Chad in the case at no charge until 2004.

"The subsidies paid by the United States to its 25,000 cotton farmers exceed the entire gross national income of virtually every cotton-exporting country in West and Central Africa," McGivern said. "Despite several rounds of litigation and ministerial-level negotiations, this issue remains unresolved."

The United States has consistently argued that cotton should be dealt with as part of a world trade deal among the WTO's 153 members. Those talks have been going on since 2001 and are far from completion.

Brazil and the U.S. have often clashed in the negotiations, which have largely divided rich and developing nations over how to open up farm trade in the industrialized world while easing access for manufacturers and service providers in emerging markets such as China and India.

Critics of the cotton subsidies say they drive down prices, making it impossible for small farms to compete in international markets and more difficult for poorer countries to develop their economies by selling their agricultural produce abroad.

A WTO-proposed draft released two years ago calls on the U.S. to make an 82 percent cut in trade-distorting handouts to American cotton farmers as part of the trade accord. Washington has rejected the cuts, but never proposed an alternative.

The cotton case was the first agricultural case launched by a developing country in the WTO's history.