# 5

# Agricultural Commodity Issues

## Introduction

The mandate for the Doha Round did not include specifically the problems encountered by developing countries that are heavily dependent on three or four primary commodities for their export earnings, as a result of the persistent decline in prices and their volatility. How could these problems be addressed in the negotiations? This question was the subject of frank and open discussions in two high-level special meetings in Geneva in the first half of 2002. The meetings were organised by the delegations of Kenya, Tanzania and Uganda with Ambassador Amina Mohamed of Kenya in the role of co-ordinator.

The discussion in the first meeting was based on a keynote paper prepared by the Adviser. For the second meeting an independent commodity expert, Mr Peter Robbins was invited to participate and present his views. In addition, representatives of UNCTAD, the UN Food and Agriculture Organization (FAO), International Coffee Council and Common Fund for Commodities made contributions on the work that was being done by their organisations and on possible action that could be taken in the round, particularly on stabilisation of prices.

There was a general consensus at the meetings that further examination was required in the WTO of the problems faced by the 50 or so commodity-dependent exporting countries, 37 of which had been categorised as 'heavily indebted poor countries' by the IMF and World Bank. In particular, it was felt that some clarification of the legal issues relating to the negotiations and adoption of international commodity agreements could complement the work being done in the field of trade in commodities by UNCTAD, FAO and the various commodity councils, among others. The view was that the Group should raise the issues in one of the WTO's permanent bodies – like the Committee on Trade and Development, which provides a permanent forum for research, analysis and discussions on trade problems of developing countries – before taking them into the negotiations.

## A Non-Paper Calls for Urgent Action

In pursuance of these recommendations, the delegations of Kenya, Tanzania and Uganda took action again with a submission to the Committee on Trade and Development on 19 May 2003. The submission was the 'Non-Paper on the Need for Urgent Action in WTO to Deal With the Crisis Situation Created by the Long-term Trend Towards Decline in Prices of Primary Commodities to the Trade and Development of Developing Countries Which Are Heavily Dependent on Their Exports' (WTO 2003). The preamble to the non-paper highlighted the serious impact of the decline in prices on the economies of the developing countries. In particular it stated:

> 'The sharp decline in prices of these commodities has created a crisis situation in most of the commodity exporting countries, as there is close relationship between world market prices and poverty levels. In most of these countries farmers living at subsistence levels and who are in most cases also heavily indebted undertake production of crops like coffee, cocoa and sugarcane on small farms. The decline in prices has further reduced the meagre income of these farmers, pushing more and more of them below poverty levels.'

The section that followed the Preamble described the main reasons for the decline in prices.

> 'The main factor responsible for the decline in prices for almost all agricultural commodities is the imbalance between supply and demand. In the case of coffee and cocoa and some other commodities the oversupply is "structural" in nature as production and supply is consistently far in excess of world demand. There are three reasons for this. First, poor farmers try to produce more when prices are falling in order to maintain the same level of income, as they have no other source of income. Increased production, however, results in depressing prices further. Second, in relation to some of the commodities, the policy measures adopted by a few of the major producing countries have resulted in increased production, thus augmenting the oversupply. Third, in recent years new countries that are low-cost producers have started growing some of these crops. The irony is that the World Bank and the IMF advised these countries to diversify production to these commodities, apparently without taking into account the fact that resulting increased production could depress world prices unless there was a corresponding increase in world demand. Donor countries have also often encouraged and assisted developing countries to undertake cultivation of new agricultural export crops without adequate study of whether in the long term the world market would be able to absorb the increased production, without depressing prices.
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> Structural oversupply on world markets has generally resulted in a large accumulation of stocks, and this movement of stocks is mirrored and magnified in the movement of prices. The ratio of global stocks to annual consumption had reached exceptionally high levels in recent years. For commodities in the situation of chronic oversupply (e.g. coffee and cocoa) the revival of prices is unlikely unless producing countries take steps to control production and reduce stocks. Past efforts by international commodity organisations to secure equilibrium between supply and demand, at stable and remunerative prices, have not always met with success. The economic clauses in the international coffee, cocoa and sugar agreements, which allowed these organisations to intervene in the market for the above purposes, have been abandoned. However, even if they were to be revived, it is doubtful whether buffer stocks alone could be effective in stabilising prices at levels that are remunerative to producers. Buffer stock operations are based on the assumption that the imbalance between supply and demand is

of a temporary nature, and that it would be possible to dispose of the stocks in order to defend the floor price when prices firm up as a result of reductions in production or increases in demand. But with stocks amounting to nearly one-third of the estimated consumption now available in producing and consuming countries, if a buffer stock agency were to enter into the market, it would be saddled with stocks that it could only attract heavy losses on the world market.

IMF and World Bank structural adjustment programmes have further exacerbated the problems encountered by countries exporting primary commodities as a result of low world market prices. Developing countries receiving assistance under such programmes were required to liberalise their internal markets by, among other actions, abolishing marketing boards. It is no doubt true that governments used these boards to raise revenue in a non-transparent manner, often resulting in high levels of taxation for agricultural producers. But they provided valuable services to the farmers, including guaranteed minimum prices (reflecting the strategy followed by the EU and US among other industrialised countries); making credit available at affordable rates; maintaining quality control and meeting quality standards; providing extension services (inputs, fertilizers, insecticides, etc.); and making it possible to sell forward, thus avoiding intra year seasonality.'

The last section of the non-paper set forth the possible solutions to these problems that could be found under the rules-based system.

'With the abolition of marketing boards, the international financial institutions were encouraging developing countries to develop the use of market-based instruments to protect the commodity producers and traders from the risks arising from fluctuating prices. These efforts have met with extremely limited results mainly because small farmers lack access to the know-how and foreign exchange required for dealing with future trading. In this situation there was a growing view that the long-term solution to the problem posed by "declining prices" could be found only if "producing countries" entering into arrangements for the management of supplies...

...The GATT rules call on its member countries to take "joint action" for negotiations on international agreements for stabilising commodity prices at equitable and remunerative levels (Art. XXXVIII). However, the GATT rules relating to negotiations of international commodity agreements are ambiguous and are generally interpreted to imply that such agreements must have as members not only producing countries but also consuming countries. These provisions may have to be reviewed to clarify that it was open to producing countries to enter into arrangements for management and control of suppliers without inviting consuming countries to become members.'

A paper prepared subsequently (Rege 2008) explained that any such clarification would not involve any amendment of the existing rules but it would make them more explicit, as demonstrated in Box 8.

**Box 8: GATT flexibility for producer countries entering into commodity agreements**

The **main provisions** relating to international commodity agreements are contained in Article XX covering general exceptions to its rules.

Sub para (h) states that the exceptions provided shall also 'extend to any measures', such as 'restrictions on exports', undertaken in pursuance of the obligations under any international agreement that conforms to criteria submitted to the Contracting Parties (now WTO Ministerial Conference) and not disapproved by them or which is so submitted and not disapproved by them.

An interpretative note to the provisions states that the above exceptions apply to international commodity agreements that conform 'to the principles approved by the Economic and Social Council in its resolution 30 (iv) of 28 March 1947'. The resolution inter alia states that commodity agreements must provide for participation of both countries that are producers or exporters of the commodities concerned and countries that are substantially interested in imports and consumption.

The drafting history of the Article shows that in the 1995 Review Session of GATT member countries there was considerable support for the proposal that in cases of short supply or burdensome surplus countries that considered themselves as substantially interested in production can separately enter into such agreements. In order to provide flexibility to countries to enter into commodity agreements the drafters used a formula that permitted countries to enter into agreements that did not conform to the principles laid down in the ECOSOC Resolution, if WTO did not disapprove them after their submission.

Since WTO decisions are taken by consensus, it could be difficult for countries that may have reservations to build the negative consensus necessary for disapproving such agreements particularly as the notifying countries can always block the decisions disapproving its adoption.

## Favourable reactions

In the discussions in the Committee on Trade and Development, the initial reaction of some of the developed countries to the points made in the non-paper was one of scepticism. This was particularly so with respect to the proposal that commodity producing countries should be permitted to enter into agreements among producing countries for stabilisation of prices. The developed countries felt it would be appropriate for these countries to rely on market-based instruments and, if necessary, the technical assistance provided by UNCTAD, the World Bank and other agencies to establish an institutional framework for the application of such instruments, could be further strengthened. Gradually, however, they were persuaded to support the proposal when, in the course of the debate, the submitting countries gave the assurance that they fully recognised the importance of using market-based instruments for stabilisation of prices, and they would only resort to the adoption of arrangements among producing countries for stabilisation of prices in cases of structural oversupply and where it was considered appropriate to use measures such as requiring farmers to reduce production or destruction of accumulated stocks. The WTO Secretariat's decision to invite representatives of the international councils for coffee and cocoa, the Common Fund for Commodities and delegations from some of the commodity exporting countries to make presentations on the problems faced in taking action at national and international levels for stabilisation of prices, further deepened understanding of the issues that could be addressed in the negotiations.

## Proposal to Change GATT Rules

Nearly two years after the submission of the non-paper to the Committee on Trade and Development, some of the countries that were playing an active role in the debate decided that the discussions in the Committee had created an adequate basis for taking up the proposals in the negotiations. In June 2005, six countries – Côte d'Ivoire, Kenya, Rwanda, Tanzania, Uganda and Zimbabwe – tabled a proposal in the Special Committee on Agriculture spelling out specific areas in which action could be taken in the Round, including possible modifications to the GATT rules (WTO 2005).

### Broad support

The tabling of the proposal and exchange of views that followed in the Special Committee resulted in the addition of specific provisions in the work programme adopted at the Hong Kong Ministerial meeting held in December 2005. The provisions recognised 'the need to address the particular trade concerns of developing and least-developed countries arising from the long-term decline in commodity prices'.

After securing inclusion of the 'commodity issues' in the agenda for negotiations, the six most active delegations in the discussions and negotiations decided it was time to raise the matter at the political level in the meetings of senior African trade officials and ministers.

The Ministerial Declaration on the Arusha Plan of Action on African Commodities, which was adopted on 23 November 2005, emphasised the importance of the involvement of African countries in finding solutions to the commodity issues in the ongoing negotiations. The Executive Committee of the African Union endorsed the proposals contained in the Declaration in January 2006 and the African Union in April 2006.

In Geneva, on 7 June 2006, the 31 member countries of the African Group tabled a paper expressing their full support for the proposal and emphasising the importance they attached to finding a solution to the problems faced by commodity-exporting countries in the Round (WTO 2006).

As the news spread about the tabling of the proposal, and the contents and thrust of it became widely known, a number of non-governmental organisations with offices in Geneva, such as Oxfam and the Institute for Agriculture and Trade Policy, as well as others, requested briefings from some of the delegations and the Adviser. These organisations indicated their general support for the proposal and some of them were invited to the informal meetings arranged periodically to review developments in the negotiations.

These and other non-governmental organisations as well as some of the independent commodity experts publicised the proposal widely.[1] This prompted action from over 50 national farmers' associations and organisations from developed and developing countries and international non-governmental networks and federations working on trade and development and poverty alleviation. They signed and circulated an open letter, 'Call to Action on the Basis of Agricultural Commodities', on 7 July 2006, emphasising their support for the African Group proposal. The letter also stated that the signatories would work through all relevant channels to get wider support for the 'policies reflected in the proposal'.[2]

## Negotiating modalities tentatively agreed

The wide public support for the proposal and the energetic and effective pursuit of the proposal in the negotiations by a number of African countries led by Kenya resulted in agreement being reached on the inclusion of separate modalities for negotiations on commodity issues in the text on modalities for negotiations on agricultural products (Box 9).

**Box 9: Proposed modalities for negotiations on the rules relating to international commodity agreements**

- Provision shall be made to ensure the possibility that Members may take joint action through adoption of suitable measures, including through adoption of intergovernmental commodity agreements, for stabilisation of prices for exports of agricultural commodities at levels that are stable, equitable and remunerative. The provisions of Article XXXVIII in the chapter on Trade and Development of GATT 1994, Part IV, which inter alia stipulates that the WTO Members could take 'joint action' through 'international arrangements' for ensuring 'stable equitable and remunerative prices' for exports of primary agricultural commodities should be reviewed, clarified and improved so that...an understanding will be reflected in the Agreement on Agriculture that the term 'arrangements' covers both commodity agreements of which all interested producing and consuming countries are parties, and agreements of which only commodity-dependent producing countries are parties.
- Action for negotiations and adoption of intergovernmental commodity agreements in pursuance of the provisions of the paragraph above may be taken either jointly by producing and consuming countries or by commodity-dependent producing countries only.
- Such intergovernmental commodity agreements may be negotiated and adopted by the countries themselves, or adopted after negotiations undertaken under the auspices of the WTO, UNCTAD or international commodity organisations.
- Intergovernmental commodity agreements may be negotiated and adopted on an international or regional basis.
- Such agreements may provide for the participation of associations of producers.
- The general exceptions provisions of Article XX (h) of GATT 1994 shall also apply to intergovernmental commodity agreements of which only producing countries of the concerned commodities are Members.
- Technical assistance shall be provided for, inter alia, the improvement of world markets for commodities and adoption and implementation of intergovernmental commodity agreements.
- Financial resources required by the international trade and other organisations for providing technical assistance in accordance with the provisions of paragraphs 100 and 101 above shall be monitored through the mechanism established in WTO for administering Aid for Trade.

It is expected that negotiations for securing clarification of rules on the basis of the above modalities would be held immediately after the modalities package is accepted and completed. Some of the commodity-dependent exporting countries have proposed that the most appropriate legal form that could be adopted for the clarification of rules relating to international commodity agreements would be to include a separate Article in the Agreement on Agriculture. For participation in these negotiations, legal based text for inclusion of a new Article in the Agreement would be prepared at an appropriate time in the negotiations, in co-operation with the interested delegations.

## Reductions in tariff escalations

The non-paper had emphasised the need to ensure that 'tariff escalations' are reduced. They are to be found in the tariff structures of many countries and adversely affect the development of industries for further processing of commodities in developing countries that are producers. The modalities that would be adopted for reduction of tariff escalations are listed in Box 10.

**Box 10: Modalities for negotiations for reduction in tariff escalations**

In the event that adverse effects of tariff escalation for commodities were not to be eliminated via the tiered formula for reductions in bound duties and such specific measures on tariff escalation as are provided for, Members shall engage with commodity-dependent producing country Members to ensure satisfactory solutions. Consistent with this, the following approach shall be applicable:

(a) Commodity-dependent developing country Members, individually or as a group, shall identify and present products of interest to them for purposes of addressing tariff escalations to be adopted as part of the modalities. In doing so, they will indicate the match of products on which tariff escalation should be addressed;

(b) Developed countries and those developing country Members declaring themselves to be in a position to do so shall undertake tariff escalation reductions in the identified products;

(c) At the end of the implementation period, the difference between the identified primary and processed products shall not exceed an agreed defined percentage spread in the event that the combined effect of reductions through the tiered formula, through liberalisation of tropical and diversification products and through the tariff escalation is not deemed to have been sufficient.

*Source:* WTO Document TN/AG/W/4 Rev. 3

Provision shall be made also for suitable procedures for negotiations on the elimination of non-tariff measures affecting trade in commodities.

This work shall continue through the post-modality phase to be concluded no later than the scheduling phase. The Secretariat will provide technical assistance in support of the commodity-dependent developing country Members throughout this period.

*Source*: GATT document TN/AG/W/4 Rev. 4

## Notes

1. Communication from Oxfam and Friends of the Earth, 'Common Position in Support of the African Group Proposal Submitted to the WTO'; communication from the Institute for Agriculture and Trade Policy, 'The Right Path to Development: African Countries Pave the Way'. 7 June 2006.
2. See 'Call to Action on the basis of Agricultural Commodities', open letter from over 50 national and international networks and federations inviting support and early action on the proposal on commodity issues tabled by the African countries in WTO, 1 February 2007.

## References

Rege, V. 2008. 'Possible Legal options for clarification of GATT Rules Relating to Commodity Agreements to Permit Adoption of Agreements in which Producing Countries participate'. Main document and Summary.

WTO. 2003. 'Non-paper on the need for urgent action in WTO to deal with the crisis situation created by the long-term trend towards decline in prices of primary commodities to the trade and development of developing countries which are heavily dependent on their exports'. Communication from Kenya, Tanzania and Uganda. WT/COMTD/W/113, 19 May.

—2005. Proposal submitted by Cote d'Ivoire, Kenya, Tanzania, Uganda and Zimbabwe to the Special Committee on Agriculture. WTO document: GATT JOB (05)/13, 16 June.

—2006. 'Modalities for Negotiations on Agricultural Commodity Issues'. WTO Document: TN/AG/GEN/18, 7 June.