

**MODALITIES FOR NEGOTIATIONS ON AGRICULTURAL COMMODITY ISSUES
PROPOSAL SUBMITTED BY THE AFRICAN GROUP TO THE SPECIAL SESSION OF
THE COMMITTEE ON AGRICULTURE**

Communication by the African Group

Background and Mandate

The problems which African countries encounter in taking effective policy measures for alleviation of poverty and for improving living conditions in rural areas are compounded by the long term trend of declining prices of primary agricultural commodities and their volatility which adversely affect both producers and exporters.

During the African Union Extraordinary Conference, held in Arusha on 23 November 2005, African Ministers strongly emphasized the need to address these issues within the WTO rule-based system. The Arusha Declaration and Plan of Action which were adopted at that Conference noted with concern "the lack of progress in WTO negotiations in addressing commodity-dependent producers' concerns" and stressed the "need to establish concrete modalities for addressing commodity price volatility". The need to take follow-up action for the implementation of these and other recommendations of the Arusha Declaration was subsequently endorsed and re-emphasized by the Executive Council of the African Union at its meeting held on 20-21 January 2006 in Maputo. In addition, at the recently concluded African Union Trade Ministers meeting held in Nairobi on 12-14 April 2006, Ministers underscored the urgent need to establish concrete modalities to address the particular trade-related concerns of developing and least developed countries related to commodities as agreed in the Hong Kong Ministerial Declaration.

In this context the African Group underscores the specific mandate adopted at the Hong Kong Ministerial Declaration for the negotiations on commodities. In particular, it states that in addition to intensifying the work that is being undertaken in the Committee on Trade and Development on the problems which several developing and least developed countries that are dependent on export of commodities face, as a result "of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities", it is necessary to address the "particular trade-related concerns of developing and least-developed countries related to commodities in the course of the agriculture and NAMA negotiations."¹

Annex A of the Hong Kong Ministerial Declaration further clarifies that "there was general support" among the participants to the adoption of modalities for negotiations which were "capable of addressing effectively key areas" of concerns of commodity-dependent countries. In this regard, it

¹ See Para. 55 of the Hong Kong Ministerial Declaration.

identifies the following key areas of negotiations on which such modalities would have to be developed:

- The elimination of tariff escalation, where it discourages the development of processing industries in the commodity-dependent exporting countries.
- Review and clarification of the current status of GATT 1994 provisions relating to the stabilization of prices through the adoption of supply management systems by commodity-dependent producing countries, with the aim of revising these provisions.
- Review and clarification of the provisions on the use of export taxes and export restrictions under such systems.
- More concrete undertakings in the area of the non-tariff measures.²

2. Modalities to be adopted for negotiations on commodity issues

Taking into account the above mandate, the African Group proposes that the following modalities should be adopted for negotiations on the areas listed above.

2.1 Tariff Escalation

In light of the adverse impact of tariff escalation on the capacity of commodity-dependent producing countries to develop processing industries, it is urgent to adopt modalities that would ensure that tariff cuts following the application of the formula result in satisfactory reductions in the level of tariff escalation. Commodity-dependent producing countries shall negotiate with Members maintaining such tariff escalation with the aim of finding appropriate solutions.

2.2 Adoption of an appropriate legal instrument clarifying GATT rules applicable to joint action by commodity-dependent producers and the reaffirmation of the use of export restrictions and export taxes

Article XXXVIII of GATT 1994 authorizes Members to take joint action, including action through international arrangements, "to stabilize and improve conditions of world markets" in commodities. Such action could include measures "designed to attain stable, equitable and remunerative prices for exports of such products" and could be taken under the umbrella of WTO or "elsewhere, as appropriate".

In accordance with these provisions, in the past, a number of commodity agreements – in which both producing and consuming countries participated – were negotiated, many of them under the auspices of UNCTAD. These commodity agreements have resulted in the establishment of international commodity organizations for implementation of their provisions. Since the clauses included in this agreement for establishing a price stabilization mechanism were found to be ineffective, these clauses were not included in the agreements that were adopted after reviewing the experience of their operation. As a result, these agreements do not at present provide a mechanism of price stabilization.

Against this background, there is increasingly a view amongst commodity experts and policy makers in commodity-dependent exporting countries that for commodities like coffee and cocoa, where the distortion of prices is the result of oversupply of a structural nature in the international markets,

² See Notes to Annex A of the Hong Kong Ministerial Declaration, para. 21.

appropriate action may have to be taken by the producing countries themselves, by entering into arrangements for management of supplies, *inter alia*, through control of over production and/or imposition of restrictions on exports.

In order to facilitate the adoption of such arrangements for supply management, in which commodity-dependent producing countries only participate, it would be necessary to adopt an appropriate legal instrument clarifying and improving the rules of Article XXXVIII relating to "joint action" and other relevant GATT rules.

The modalities for the negotiations of the legal instrument shall provide for the following:

- 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 to provide 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.
- Such producers' agreements may be negotiated by the producing countries themselves or adopted after negotiations undertaken under the auspices of UNCTAD or International Commodity Organizations. They may be negotiated on an international or regional basis and may provide for participation of associations of producers.
- The exception provided by Article XX(h) which permits member countries or intergovernmental commodity agreements, to apply export restrictions and other measures that may not be consistent with the rules of GATT, provided that they are necessary for the attainment of their objectives, shall also apply to the agreements in which commodity-dependent producing countries only participate.
- It shall further be reaffirmed that the existing rules permitting countries to impose taxes on exports for the attainment of development and other objectives, including those relating to the stabilization of prices of primary commodities, shall also apply to export taxes levied in pursuance of such agreements.

2.3 Technical and financial Assistance

- Technical assistance needed for the adoption of such supply management systems shall be provided by relevant organizations including UNCTAD, to which necessary resources should be made available, and where feasible, by International Commodity Organizations; and
- Financial resources required *inter alia* to compensate farmers for the loss of income which may occur in the period immediately following the adoption of supply management systems, as a result of their having to reduce production, shall be provided by the international financial institutions such as World Bank and IMF and/or by the agency that may be established in WTO for administering Aid for Trade.

- The Common Fund for Commodities has an important role in terms of providing project finance to farmers for diversification of production to other crops and for the development of other sectors of production.
- There should be a periodic review of the developments in the world commodity markets and their impact on the trade and economies of commodity-dependent exporting countries.

3. Non-Tariff Measures

Modalities shall provide for the adoption of the suitable procedures for negotiations on the elimination of non-tariff measures affecting trade in commodities.
