Global Forum on Competition

COMPETITION AND COMMODITY PRICE VOLATILITY

-- Executive Summary --

16-17 February 2012

The attached Executive Summary is circulated to delegates FOR INFORMATION.
EXECUTIVE SUMMARY

By the Secretariat

1. Considering the background papers, discussion by delegates and expert panellists at the Global Forum and countries’ written submissions, several key points emerge:

(1) **Primary commodity prices are inherently volatile and the current and recent episode is not historically unusual.**

2. All commodity prices - agricultural and mineral - exhibit outbreaks of volatility, during which prices spike up, for example in the 1970s and late 1990s. Supply and demand are both inelastic in the short term, so mis-matches can result in large price movements. In real terms, price spikes in the early 1970s were considerably higher than in the current episode.

3. Worldwide high and volatile prices reflect global forces of supply and demand that are only slightly responsive to national economic or competition policies – although in some cases, policies such as export bans have exacerbated the problem significantly. Some competition authorities noted that subsidies and mandates for biofuels had raised the prices of associated foodstuffs and, by making supply less elastic, had also contributed to higher price volatility. Speculative activity on commodity markets often anticipates global forces and may result in more short-run volatility but less in the medium term. There is little evidence that such activity influences average prices over a significant period.

4. There is some evidence that the current and previous episodes of high commodity prices reflect movements of significant proportions of the world population up into the moderate income brackets. Demand rises, stocks are run down, and prices become more sensitive to small changes in supply. However, for some commodities, the structure or practices of the global supply chain may contribute to this ‘natural’ volatility by reducing elasticities still further.

(2) **High commodity prices encourage politicians and the media to put pressure on national competition authorities to “do something”. This is especially the case when basic foodstuffs are involved, particularly in poorer countries.**

5. Lack of competition leads to high prices, but as noted above, high prices do not necessarily signify lack of competition. On the contrary, rapid movements in prices can show competitive markets responding well to changes in supply or demand. Nevertheless, national competition authorities may be requested to investigate particular markets, especially but not only for agricultural products.

6. High agricultural prices can lead to humanitarian crises in poorer countries, where staple foodstuffs can account for up to 80% of the budgets of the poorest households. Even if the high prices seem to reflect global forces, it is not advisable for competition authorities to refuse to become involved. If they do refuse, they may lose credibility and political support.
One approach that is open to national competition authorities when faced with high and unstable commodity prices is the comparatively straightforward one of factual studies, namely price monitoring and market studies.

7. The first step in responding to volatility in commodity prices is to understand the causes. It is important to know if commodity price movements within a country faithfully reflect global price movements, or whether there are anomalies. In some countries, retail prices – for example of petroleum products – are routinely monitored by the competition authorities to see if price movements are significantly out of line with changes in global prices. If unexplained movements occur, competition authorities could launch a market study, to understand the drivers of price in a given market.

8. Such market studies have proved to be a very useful tool. In some cases, they find indications that the competition law may have been breached, leading to enforcement action under competition law. They can also throw valuable light on the influence of national and local regulations on the strength of competition, and allow the competition authorities to make useful proposals in this area. Finally, if a market study finds neither such constraint on competition, it can at least inform Government and the public that price volatility is the result of the market working normally, perhaps helping to avoid inappropriate and inefficient policy responses.

In cases where governments are reacting to socio-economic crises sparked off by high commodity prices, for example for agricultural products, national competition authorities can help shape the appropriate response.

9. Faced with genuine hardship occasioned by unexpectedly high commodity prices, governments might intervene with emergency measures to change market outcomes. Such measures can include price controls, subsidies to producers, export bans and direct government intervention in the production and distribution of some products.

10. In some countries, national competition authorities are mandated to give binding advice on measures such as these. In others, governments may be obliged to seek such advice, but not be bound to follow it. In others, there is no such obligation to seek advice, but the competition authority is not prevented from giving it, and should do so.

11. Price controls represent a significant intervention in the operation of the market, and should be adopted only in limited circumstances, and with care. High prices signal to consumers that their chosen products are expensive to produce, causing them to seek cheaper alternatives if possible. High prices also signal to producers that they should invest to increase production. These responses by consumers and producers together can help to solve the imbalance that caused prices to spike. If prices are artificially held below the levels that reflect the supply/demand balance, neither consumers nor producers will respond like this, and the imbalances might persist. Competition authorities should warn governments of this, perhaps also providing advice on how such effects can be limited if the political need to prevent price rises makes some form of price control necessary. For example, price controls could be limited in scope (to just the most basic goods) and strictly temporary in duration.

12. In some countries, governments have subsidised the production or importation of the affected commodities. The evidence shows that this policy can be very expensive for the national budget when commodity prices remain high for long periods. If consumers are shielded from the true costs of their decisions, as generous subsidies neither discourage demand or waste, nor encourage search for substitutes, then they will see no reason to reduce their consumption of the subsidised goods, perpetuating and even increasing the need for subsidy. Again, competition authorities might advise strictly limited and temporary subsidies, for example on basic goods consumed by the poor that do not compete with higher-priced branded goods.
13. Export bans result in price spikes in importing countries and discourage producers in the exporting countries from investing in new supply. Some countries have eased import barriers – tariffs and quotas – to put downward pressure on domestic prices. In recent years, export bans may have significantly exacerbated the effects of supply/demand imbalances for some agricultural commodities and for one – rice – seem to have been the principal cause of global price rises.

14. Governments may want to take over all or part of the supply of basic foodstuffs in crisis conditions. Unless there is clear evidence that such direct provision is necessary (for example lack of adequate transport facilities for moving food to where it is desperately needed), national competition authorities should underline that governments are not better than the private sector at running business operations, and that such intervention might deter private sector suppliers from helping to solve the problem.

15. Competition authorities offering policy advice to governments in such circumstances will usually be operating in a highly sensitive political environment, and must strike a careful balance between maintaining sound and rigorous policy advice and ensuring they are not perceived as out of touch and uncaring. The country contributions in this volume contain examples of policy interventions that have been well-designed to minimise competitive distortions, as well as several illustrations of the damaging effects of badly-designed policies.

(5) Anticompetitive behaviour in food supply chains can exacerbate the impact of fundamental supply and demand forces on commodity prices.

16. Several countries at the Global Forum reported that when they analysed supply chains for agricultural products, they often saw signs of anti-competitive behaviour.

17. Anticompetitive behaviour at the level of farms is uncommon, presumably because dominance is rare in what are typically homogenous and even global product markets. Government-encouraged co-operation schemes both on the purchasing and marketing side are fairly common, and such co-operation needs to be monitored to ensure that it does not turn into price-fixing.

18. At the other end of the supply chain, supermarket chains often have significant buying power, which puts pressure on suppliers and small-scale competitors. It was agreed that this need not be a competition problem, particularly if cost savings are passed on to final consumers, and if the chains themselves compete with each other to the extent permitted by local or national regulations – which might not be optimal (see below).

19. Participants agreed that the most prevalent form of anti-competitive conduct was in the intermediate stages of the supply chain, often for processed foods, and often when a comparatively small number of food processing enterprises dealt with a large number of farms and of wholesalers. Several countries reported cases dealing with such enterprises, including cartel-like activity, and sanctions had been imposed.

20. Such cartels probably existed before high and volatile commodity prices struck, but became more visible as a result, because of the need for more frequent negotiations between cartel members.

21. As well as cartel-like activity between the producing and consuming stages, such conduct also occurs at input stages, for example for seeds and fertilisers, as well as transport of produce. In some countries, supply of inputs and/or purchase of outputs (especially for export) can be a government monopoly.
(6) Particularly in agricultural and food supply chains, national and local regulations distort and reduce competition, perhaps more so than private anti-competitive conduct.

22. In many countries, there appears to be an official mindset that the production, import, export, processing, transport and wholesale and retail distribution of food is too important to be left to the free play of competitive markets. Regulations abound at all levels, particularly in developing countries. International trade in agricultural products continues to be hemmed in by quotas and other restrictions, and distorted by subsidies, particularly in advanced OECD countries.

23. In several countries, foreign direct investment (FDI) in the agricultural sector is forbidden or heavily restricted, reducing the possibility of introducing new techniques. Even domestic markets for land may be strictly controlled, preventing the emergence of large farms able to exploit economies of scale.

24. Regulation can also take the form of minimum support prices, regulated marketing arrangements, and government controls and regulations concerning markets for inputs. Because price signals are distorted or non-existent, investment decisions and resource allocation are sub-optimal. Agricultural policies and research tend to be directed towards alleviating the symptoms rather than addressing the fundamental distortions.

25. At the retail level, local and national regulations often determine whether and how many large-scale and small-scale outlets can locate in a given area. Supermarkets may face size and location restrictions if they are allowed to operate at all. Specialised retail outlets may not be permitted to locate close to existing outlets in the same sector, even though this maximises competition.

26. Experience shows, however, that in some circumstances very rapid deregulation can create conditions favourable for anti-competitive conduct to emerge. Market monitoring is advisable when governments embark on major liberalisation programmes.

(7) Export cartels for metal and mineral commodities represent a continuing problem.

27. Production of many mineral and metal commodities is concentrated geographically, making cartelisation simpler, while consumption is scattered world-wide, reducing the potential for offsetting buyer power. Cartels exist, or have existed, for oil, aluminium, tin and potash.

28. Although competition law forbids cartels to operate domestically, it is generally not illegal for producers to collude to fix prices solely for export. Indeed, insofar as high cartelised export prices result in higher tax revenue in the exporting country, without directly harming consumers there, some governments take a benign view of this. From a global welfare standard, however, such cartels are just as damaging as those forbidden by national competition law. Indeed, as many such cartels increase the prices of essential inputs, they may be among the most damaging price-fixing conspiracies. To the extent that importing jurisdictions are unwilling or unable to act to protect their own consumers, addressing this issue may require action at an international level.