BANANA WARS
The Anatomy of a Trade Dispute

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Preface

The idea for a book on the banana dispute originated in December 1998 in the corridors of a meeting of the International Agricultural Trade Research Consortium, the premier professional association for the discussion of agricultural trade policy issues. The editors found that they had a mutual interest in the saga of the banana dispute, Taylor as a student of the behaviour of food corporations and the prospects for Caribbean agribusiness and Josling as a follower of WTO issues and long-time observer of EU agricultural and trade policy. The idea was hatched to involve other colleagues who had expertise in various aspects of the issue, and to put together a volume that looked at the many dimensions of the banana market dispute within a comprehensive framework. We approached several colleagues to join us in this effort and found an enthusiastic response.

The preparation of the book was greatly helped by two workshops, the first held at the European Forum, Institute for International Studies, Stanford University in April 2000 and the second at the National Center for Food and Agricultural Policy in Washington, DC, in February 2001. These workshops gave the authors a chance to discuss drafts and to make a more coherent volume. Research support, mainly in the form of travel funds, is gratefully acknowledged from the European Forum, Stanford University and from the Center for Agribusiness, University of Florida. These institutions should not, however, be held responsible for the content of the book.

The editors would especially like to thank the authors for their efforts and for the cooperative spirit in which the manuscript came together. At Stanford, Rachel Anderson did sterling work on editing and formatting the manuscript, besides co-authoring one of the chapters. The cohesion of the book as well as its presentation owes much to her efforts.

Finally, we owe a debt to our families who bear the brunt of the frustrations and preoccupations associated with authoring and editing a volume such as this. To them we dedicate our efforts.

Tim Josling and Tim Taylor
April 2002

1 Introduction

Tim Josling and Tim Taylor

On 11 April 2001, the US and the EU announced an end to the trade dispute over the sale of bananas into the EU market. The dispute had arisen from the complex licensing system developed by the EU to regulate banana imports into the 'Single Market' in 1993. The mechanism used for allocating the licences had been found to violate the WTO rules, as it discriminated against suppliers from Latin America. The compromise agreement sets up an interim allocation of licences based on historical market shares, prior to the dismantling of the licence system altogether by 2006. Though not entirely happy with the outcome, producing countries in the Caribbean and Latin America generally have accepted the compromise.[1] Chiquita, the company that claimed to have suffered most under the EU banana regime, has been granted improved access, at the expense of other firms in the market. So, at least for the next 5 years, a truce is likely to prevail in the intercontinental banana war.

The long-running trade conflict in the banana market presents a fascinating excursion into the realm of trade regulation, commercial diplomacy and development policy. The complexity of the banana conflict is itself noteworthy: it has proved a test case for several aspects

[1] Ecuador subsequently had separate discussions with the EU to ensure that its own interests are taken care of in the allocation of licences. The remaining objections to the banana deal were finally resolved at the time of the WTO Ministerial in Doha in November 2001, when the waiver for the EU's replacement for the Lomé Agreement (the Cotonou Agreement) was agreed.

of trade policy, including the authority of the World Trade Organization (WTO), and its General Agreement on Trade in Services (GATS) and Dispute Settlement Body (DSB); it has challenged the development policies of the EU, as laid out in the Lomé Conventions as well as the policies of the producing regions; and it has exposed some sensitive issues of domestic political influence, not least in the US. Each of these aspects of the story would merit examination and reflection. But it is the interaction of these different policy issues that renders the banana case unique in the area of recent trade policy disputes. Solving such a complex puzzle involving a heady mix of political interests on both sides of the Atlantic was not easy. The negotiated outcome will affect vitally the trade position of a number of actors from small island economies to large US and European companies. If well-meaning governments and their trade experts have sorted out this tangled web effectively, then trade diplomacy will have passed an important test. And if that solution leaves the trade system stronger, then the countless diplomatic and legal hours spent on the matter may yet have been worthwhile.

The facet of the story that elicits most emotion is that of the threat to the production of bananas in the Caribbean, in particular in the Windward Islands, as a result of the dependence of several of those economies on the continued sale of the crop at preferential prices in the major markets of Europe. The loss of such access undoubtedly would cause major economic and social problems in several of the islands. Thus one of the key policy issues posed by the banana conflict has to do with the problems of small island states threatened by the weakening of post-colonial trade arrangements.

Many Caribbean countries are uncertain what lies ahead down the road towards fuller integration into the global economy (and that of the Americas) and are apprehensive about the journey. Are these countries best served by the perpetuation of a trade system that in effect has tied them to the EU as a supplier of tropical fruits? Or would they be better off in the longer run if they could find other markets and products that were not quota controlled and at the political whim of European countries? But if such a move was desirable, how can it be accomplished without significant economic, social and political disruption? Most would agree that some help is required for such countries if they wish to change their trade patterns, but the best form of such aid is at present uncertain.

A second and related facet of the banana story concerns the private sector, which in the main does the marketing of bananas from the Caribbean Region and Latin America in both Europe and the USA. A small number of firms market the bulk of the crop, some focusing on Caribbean bananas and others bringing ‘dollar’ bananas from Central and South America. Considerable profits are to be made from this trade, and the firms have been competing actively for market share. But the firms themselves have changed over the years, through an intricate web of buying and selling parts of their enterprises. The current market structure is as much a reflection of company policy as commercial fundamentals. The firms have used their access to political representatives to push for diplomatic initiatives, and have helped to establish the parameters for the solution to the conflict. Thus what appears to be public policy is closely related to private-sector planning decisions. Changes in such policy have a significant bearing on the profitability of the marketing of bananas by particular companies. The tenacity with which the companies that felt disadvantaged by the EU policy changes have pressed their case certainly has distinguished this conflict from most other trade policy arguments.

A third aspect of the story is centred in Europe, where two very different banana import regimes had to be harmonized in 1993, when the 'single market' programme was implemented. EU policy previously had reflected the different interests of the members: no single import regime had been possible. In the UK, France and a few other countries, banana prices were held high by quantitative restrictions over and above the Common External Tariff to benefit the producers in the Caribbean and Africa. Germany had argued successfully for a derogation from the duty on 'dollar' bananas, on the grounds that it had no former colonies to favour. The two regimes were merged by imposing a quota on 'dollar' bananas at the EU level, a solution not popular in Germany. Added to the complexity of the internal EU issue, there is some banana production in the EU itself, mainly in the Azores, Crete and Madeira.

Thus the banana regime is strictly a part of the Common Agricultural Policy (CAP), with all the complexities and political tensions that are associated with that regime. The policies were formed largely at a time when the GATT rules were not thought to have much impact on a country's behaviour. The clash between the imperative to complete the internal market, the pressure to protect domestic banana producers and the obligation to preserve the benefits to overseas suppliers was potent enough in itself. The additional constraint of a rules-based WTO with a presumption against trade preferences proved too much.

A fourth aspect of the banana story is that of the domestic political influence of the banana marketing firms in the USA. The US is not a major banana producer, and normally would not take much interest in the commodity; but the firms that market the 'dollar' bananas exercised their right to point out to the authorities actions of a foreign government (in this case the EU) that appeared to contravene agreed trade rules to the disadvantage of the US. In this they were assisted by support from key members of Congress and from some astute political donations. As sometimes happens, domestic political interests clashed with diplomatic considerations. US policy towards the Caribbean was subjugated to the need to uphold commercial interests. An issue that might otherwise have been treated as one between the EU and some dissatisfied Central and South American countries became a beacon for the US in the fight for fairer trade rules. The case of the EU banana regime thus became a major transatlantic trade dispute almost by accident of domestic political timing.

The fifth facet of the banana story is that of the WTO and its Dispute Settlement Undertaking, painstakingly negotiated in the Uruguay Round, which has been tested rigorously by the banana case. The dispute procedure has been taken to the limit of appeal and referral, arbitration and retaliation. It has served as a way of identifying ambiguities in the system as well as testing domestic political commitment to the implementation of rulings. In addition, the banana case gave an opportunity to test some other aspects of the WTO systems, such as the General Agreement on Trade in Services (GATS), as the complaint was in part based on violation of this agreement as well as that on trade in goods. But in a broader sense, the banana issue has become a metaphor in a number of small countries for their treatment under the new trade rules. The WTO is not popular in those countries that see themselves as having to abandon established export industries for the sake of trade liberalization. The fact that these countries appear to be caught in the middle of a conflict between the EU and the US reinforces the notion that the small country is being ignored in the push for opening up markets.

This study is an attempt to relate each of these five stories and then to show their interrelationship. The policy observations that arise from the banana wars are brought together to see what lessons can be learned for future policy. Is this case *sui generis*? Or does it illustrate a number of different trade issues that need to be fixed? Are we seeing the natural tensions in a period of adjustment? Or is a range of incompatible expectations being placed on a trade system that cannot possibly deliver them all?

The organization of the study is as follows. The next chapter gives a brief description of main characteristics of the world market for bananas. This is followed in Chapter 3 by a discussion of the role of private firms in this market, tracing this role from the 19th-century development of the US market for Latin bananas by American firms to the introduction of this commodity by European firms in the British Caribbean as an alternative to sugar. Chapter 4 discusses the system of production and marketing in Central America, and the relationship between the firms and the governments in that region. That these countries have diverse objectives when it comes to the regulation of the banana trade is illustrated by their different actions in the WTO: some signed the Banana Framework Agreement with the EU, some joined the US in the WTO complaint, and one (Ecuador) took independent action, dissatisfied with either course. Chapter 5 traces the introduction of bananas into the Caribbean, the benefits of bananas as a small farmer cash crop, the growth of banana handling firms and the role of the unions. The significance of bananas in production and exports in the Islands is explored along with the benefits from the preferential access agreement and the experience with filling quotas.

Chapter 6 addresses the issue from the perspective of the EU policy debate. The early compromise on bananas in the EC is discussed, along with the issue of access for French overseas bananas and the derogation for German imports. The enlargement of the EU complicated the problem, first when the UK joined and later with Greek, Portuguese and Spanish entry. In Chapter 7, the EU single market scheme for bananas is discussed along with proposals for quota consolidation and the negotiation of the Banana Framework Agreement. In Chapter 8 the economic and political interests of the US in the banana industry are explored. This chapter discusses the filing of a Section 301 case that influenced the US decision to join the other plaintiffs in the WTO complaint, as well as the impact of Congressional pressures and election politics, and the links between bananas and other WTO cases.

The issue of the WTO banana case is examined in some detail in Chapter 9. This examination includes the historical position of GATT on preferential systems for developing countries, the question of the allocation of quotas in a non-discriminatory trade regime and the obligations that countries adopted when they agreed to the GATS. In addition, the question is addressed as to how the banana conflict became a test case for full panel–appeal–sanctions sequence under the DSU, and what was clarified by the case.

A concluding chapter draws some lessons for the trade system and for avoiding or resolving other such trade conflicts in the future. What can the banana issue tell us about trade policy conflicts? What does it say about preferences and developing countries? What implications are there for TRQ administration? Does the banana case hold lessons for small developing countries dependent on preferential access? Did the WTO serve the small countries well in this case? What can we learn about the internal EU market and the way in which the two regimes were harmonized? Did large companies have too much influence on trade diplomacy in this case? Did the US allow domestic electoral politics to cloud the foreign policy issue? Were there possible private sector solutions to what appeared to be a public policy problem? Can one improve the dispute settlement process on the basis of experience from the banana case? Whether or not there are clear answers to such questions, the act of raising them is itself a useful exercise for the understanding of trade policy.

Overview of the World Banana Market

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Mechel Paggi and Tom Spreen

Introduction

Bananas are a highly palatable and nutritious fruit grown throughout the tropical and subtropical regions of the world (Fig. 2.1). Over the past century, they have established themselves as one of the most readily available fruits in the supermarkets of developed countries, as well as being consumed widely in regions where they are produced. The world banana market is influenced by a number of physical, structural and policy characteristics that play an important role in its

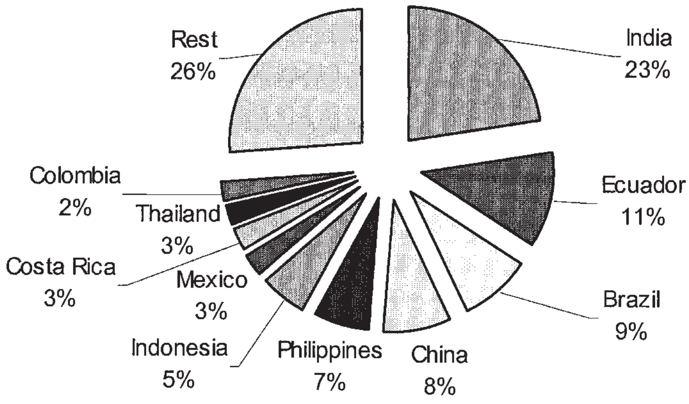

Fig. 2.1. World banana production, 2001 (Mt). Source: FAOSTAT (2001).

structure, conduct and performance. The fruit of the banana plant is highly perishable and the plant itself is subject to disease and wind damage. International trade has therefore reflected the need for an effective marketing chain. This has in turn raised long-term issues of control and risk-bearing, and has contributed to the dominance of a small number of companies in the marketing chain.

The banana and its relative the plantain are native to South-east Asia.[1] Bananas were believed to have been introduced into Africa in prehistoric times and may have reached the Western Hemisphere (Ecuador) as early as 200 BC. More recently, bananas were introduced into the Americas by Spanish and Portuguese explorers in the early 16th century, and into the Canary Islands and the Island of Hispaniola during the 1500s (Crane and Balerdi, 1998). Bananas are a heterogeneous product, with the varieties of bananas produced for local consumption often significantly different in quality from the varieties grown for export. The traditional export banana has been the Gros Michel, a variety of *Musa sapientum*, developed in Jamaica in the mid-19th century. Among those countries focused on export markets, however, the Cavendish banana is now the most favoured variety. Niche markets are also developing for organically grown bananas and those marketed with assurances about the conditions under which they were grown, such as the Fair Trade bananas.

National banana import policies have become entrenched and rooted in foreign policy. Far from being one global market, the banana trade reflects the different commercial traditions of the importing countries. It is one of the products benefiting most from patterns of preferential trade. Ironically, as a sector that represented an early example of globalization, the banana market now finds itself on the fault line between different trade regimes.

Production, Consumption and Trade of Bananas

Bananas are produced in more than 123 countries throughout the world. But the bulk of banana production is quite concentrated, with ten countries accounting for 63% of the total (see Table 2.1). In some countries, such as India, Brazil, China and Indonesia, bananas are a locally produced food staple. In other countries, such as Ecuador, Colombia, Costa Rica and the Windward Islands, bananas are primarily an export crop. The proportion of banana production that is exported

[1] The banana plant is a member of the *Emusa* family of palms, which include manila hemp (*Musa textilis*), plantains (*Musa paradisiacal*) and two groups of bananas (*Musa sapientum* and *Musa cavendishii*).

ranges from virtually zero in India to 99% in Colombia (see Table 2.1). Latin American countries such as Ecuador, Colombia and Costa Rica produce bananas mainly for export, which has given them a pivotal position in the global banana market.

More than half of the bananas produced are consumed in the world's main banana-producing countries. Only two of the top nine banana-consuming areas are not main banana producers: the EU and the USA. These two areas consume 13% of the bananas produced globally (Table 2.2). Their mutual dependence on a few key exporters of bananas, such as Ecuador, Costa Rica and Colombia, is a constant source of friction and trade disputes. The size and economic importance of these markets as the two key consumers of bananas from exporting countries in the Americas strongly influences the competitive nature of the negotiating positions of countries in Latin America

Table 2.1. Banana production, exports, and exports as a percentage of production, selected countries, 1998. Source: FAO (1999).

Country	Production (t)	Exports (t)	% Exported
India	11,000,000	0	0
Brazil	5,506,080	68,555	1
Ecuador	4,563,442	3,889,217	85
China	3,733,814	72,930	2
Philippines	3,560,800	1,149,552	32
Indonesia	3,176,749	77,433	2
Costa Rica	2,098,333	1,800,000	86
Thailand	1,720,000	1,297	0
Mexico	1,525,836	244,992	16
Colombia	1,516,640	1,508,487	99
World	55,988,655	13,504,107	24

Table 2.2. Banana consumption, per cent of world consumption, selected countries, 1999. Source: FAO (1999).

Country	Consumption	% of world
India	11,111,890	22
Brazil	4,617,420	9
China	4,309,120	9
US	3,652,888	7
EU	3,062,359	6
Indonesia	2,919,792	6
Philippines	1,848,658	4
Thailand	1,483,989	3
Mexico	1,335,955	3

and the Caribbean, whose economies are heavily dependent on revenues from banana exports.

Global trade in bananas has been steadily increasing in quantity and value during the last few years. The quantity of bananas traded has doubled over the past 20 years (see Fig. 2.2), while the total value of banana exports has more than tripled between 1980 and 2000, rising from US$1.3 to US$4.2 billion during these two decades. However, as shown in Fig. 2.3, this trade is fairly concentrated. About 94% of all exports originate from ten countries and the Windward Islands. Within this group of countries, Ecuador, Costa Rica, Colombia, the Philippines, Guatemala, Panama and Honduras account for over 88% of total world exports (see Fig. 2.3).[2]

The banana export marketing system is a major source of export earnings in many countries, especially in the Windward Islands. For example, in St Lucia the relative share of export earnings from bananas to total merchandise exports was 69% in 1998. In other areas, however, banana exports account for a relatively small share of export earnings. For example, in the Philippines, a major regional banana exporter, bananas account for less than 5% of export earnings.

In addition to contributing to export earnings, the banana industry is a major source of income and employment in many of the

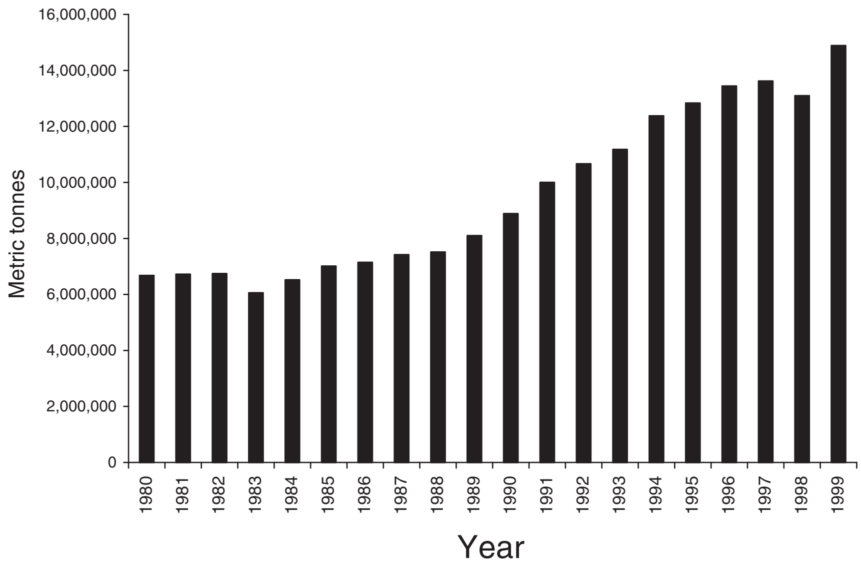

Fig. 2.2. World banana trade, 1980–1999. Source: FAO (1999).

[2] It should be noted that exports from Honduras fell to 109,000 t in 1999 from normal average exports in excess of 500,000 t as a result of the devastating effects of Hurricane Mitch.