

The G20 and NAMA 11: The Role of Developing Countries in the WTO Doha Round

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Since the 5th WTO Ministerial Meeting that was held in Cancun, Mexico, in September 2003, the G20 alliance of developing countries has become a formidable and well known coalition in the WTO Doha round negotiations.¹ The NAMA 11 group of developing countries, which was formed at the 6th WTO Hong Kong Ministerial Meeting, is less well known.² However, in the period since the Hong Kong Ministerial meeting, the NAMA 11 has become a significant group in the Doha Round negotiations on industrial tariffs (non-agricultural market access), similar to the role played by the G20 in the Doha Round agriculture negotiations. Other developing country groups have also played an increasingly assertive role in the WTO Doha Round including, the LDCs, the Small and Vulnerable Economies (SVEs), the ACP, and the African Group. These groups have jointly become known as the G90 group of developing countries. The G33 group of developing countries, representing countries with predominantly small-scale farmers and concerned to protect their rural development, livelihood and food security needs, was formed on the eve of the Cancun Ministerial Meeting.³

Amartya Sen, in his analyses of the role of women in society, argues that in the early stages of their development the women's movements concentrated mainly on women's *well being*. However, their concentration gradually evolved and broadened from this welfarist focus to an active role of women's *agency*. In this latter role women are seen 'as active agents of change; the dynamic promoters of social transformations that can alter the lives of both women and men'.⁴ Sen uses the example of the Grameen Bank, started by another Nobel Prize winner, Muhammed Yunus, in Bangladesh. The Bank began a microcredit movement aimed at providing credit to women borrowers – a welfarist role. However, this movement, he states, also went on to play a greater role in making other major changes in society – the role of agency. Similarly, during my experience in the South African Trade Union movement in the 1980s, I observed how the trade unions changed from initially being created to address their own well-being or welfare interests to embracing and supporting the struggle for their political rights as well as the rights of other groups that were discriminated for their race, gender or sexual preference. In the context of Apartheid South Africa, these trade unions took on an Agency role in the broader transformation of society and have become a pillar of South Africa's new democracy.

This paper will evaluate the role of the G20, a group that was created to advance the interests of its members in the agriculture negotiations, and the NAMA 11, a coalition created to advance the interests of its members in the NAMA negotiations, with reference to the aforementioned analytical framework. It will be argued that while these groups adopted a 'welfarist' approach in the early stages of their development (that is, one focused on "their own well being") they have increasingly begun to play an "agency" role (that is as "active agents of change"). The "welfarist approach" is a relatively narrow approach to negotiations. It nonetheless represents a significant advance from the mercantilist approach adopted by the major developed countries since the earliest period of the formation of the GATT in 1947 until the current round of negotiations. Furthermore, the evolution of the role of the G20 and NAMA 11 from a welfarist approach to an 'agency' role has been a learning process propelled by their active engagement with other developing country groups and the wider WTO membership. In this latter role the G20 and NAMA 11 have begun to articulate and defend the interests of other developing country groups, even where this has required them to adjust their own narrow self interest and transcend their narrower welfare interests. This process has laid the basis for the building of common platforms and a united front against attempts by the major trading partners to foist unfair deals on developing countries. It will also be argued that these groups have taken this process one step further in advancing the objective of a fair, balanced and development oriented multilateral trading system for all, both developed and developing country members of the WTO.

¹ Members of the G-20 include Argentina, Bolivia, Brazil, Chile, China, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela and Zimbabwe. Colombia, Costa Rica and El Salvador were previously members of the G-20.

² The NAMA 11 Group of developing countries was formed in the period shortly before the Hong Kong Ministerial Conference in December 2006. The NAMA 11 includes Argentina, Brazil, Egypt, India, Indonesia, South Africa, Philippines, Namibia, Tunisia and Venezuela.

³ Initially formed with some 23 members, the G33 group has grown to about 45 members as at July 2007.

⁴ Sen, A., Development as Freedom (Anchor Books, 1999).

In this second sense the agency of these groups is vital for the development of the WTO and the multilateral trading system as global public goods.⁵

This lecture will focus on the role of the G20 and the NAMA 11 in the WTO Doha round of negotiations. In so doing, it will discuss the evolving relationship between the G20, the NAMA 11 and the G90 group of developing countries since the launch of the Doha Round in 2001. In the first section of my lecture, I review and evaluate the progress made by the G20 and the NAMA 11 groups in the Doha negotiations in advancing their interests. This assessment will also extend to the agency roles of these groups, especially in advancing the interests of the majority of developing countries in the WTO, namely, the SVEs and LDCs. The evolution and role of the G20 and the NAMA 11 group of developing countries will be charted through five phases in the context of the Doha Round negotiations: (i) from the launch of the Doha Round in November 2001 to the Cancun Ministerial, September 2003; (ii) the negotiations leading to the WTO July Framework Agreement, 2004; (iii) the Hong Kong Ministerial Conference; (iv) the period after Hong Kong up until the suspension of the Doha Round in July 2006; and (v) from the recommencement of negotiations up to the Draft Agriculture and NAMA modalities texts in July 2007. I will conclude by providing an overall assessment of both the welfarist and agency roles of the G20 and the NAMA 11 in the context of the unfolding Doha negotiations.

1. Developing Countries in the Doha Round: The G20 and the NAMA 11 from Doha to Cancun

In November 2001 the Doha Round was launched with the promise to focus on the needs and interests of developing countries. In the month prior, the September 11 terrorist attack on the US and the heightened threat to global security that ensued focussed the minds of the major players to unite in a common effort to build a securer and more peaceful world. The Doha Round was thus set to contribute to the realization of the Millennium Development Goals to halve world poverty by 2015, which were launched at the UN Millennium Summit in 2000.⁶

The Doha Ministerial Conference had launched a broad-based round of multilateral trade negotiations, which included agriculture, services, intellectual property rights (TRIPS), industrial tariffs, rules (anti-dumping, subsidies) and the environment. Four additional areas were to be included in the negotiations if WTO Members agreed at Cancun: investment; competition; transparency in government procurement; and trade facilitation. All negotiations were to be concluded by December 2004.

Three key issues of great interest to developing countries – public health and TRIPS, special and differential treatment, and other problems with existing agreements (the so-called ‘implementation issues’) – had interim deadlines in December 2002. These were missed. Consensus was finally reached on TRIPS and public health in August 2003 on establishing a mechanism that would allow countries with no or insufficient manufacturing capacity to import medicines for public health reasons under compulsory license. But two other deadlines were missed. There was agreement in Doha that a range of provisions on special and differential treatment in favour of developing countries would need to be made operational and effective by December 2002. This deadline passed. Lastly, a range of problems with existing WTO agreements (i.e. the implementation-related concerns) facing developing countries were also to be resolved by December 2002. Again, no progress was made on these issues.

The central issue of the Doha Round was agriculture. The ‘built-in agenda’ of the Uruguay Round had failed to make any real progress on agriculture liberalization. The EU demanded a broad round, including several issues that could serve as trade-offs for concessions that they would need to make in agriculture.

The EU Rejects the Harbinson Text

⁵ See Kaul, I, Conceicao, P., Goulven, K. and Mendoza, R. Providing Global Public Goods. Managing Globalization. UNDP (Oxford University Press, 2003).

⁶ E. Zedillo *et al*, ‘Trade for Development’, UN Millennium Project, Task Force on Trade, 2005. See also J. Sachs, ‘The End of Poverty. How We Can Make It Happen In Our Lifetime’ (Penguin Books, 2005).

The Doha Declaration had decided that modalities on Agriculture must be agreed by March 2003. The Chair of the Agriculture negotiating group, Stewart Harbinson, the Permanent Representative of Hong Kong, was in a very difficult position as he began to write his first draft text. There was very little engagement amongst the members; the EC only presented its proposal on 16 December, which was described as 'too little too late' by the Cairns Group.⁷ The work programme agreed to call on the Chairperson to prepare an overview paper by the end of the year and provide a first draft of modalities in February 2003 that was to be finalised by the end of March 2003. The text produced by the chair – 'the Harbinson Text' – was roundly criticised by all sides.⁸ The Cairns Group and the US were prepared to use the text as a basis to continue the negotiation, however, the EU refused to work with the text as a basis for negotiations and it gradually fell by the wayside.

The Cairns Group

At the time of the launch of the Doha Round the main demandeur for agricultural liberalization was the Cairns Group. The Cairns group had a long history of fighting for the cause of agriculture liberalization.⁹ It combined the long struggle of developing countries to gain access to world markets for their exports of agricultural commodities, particularly, tropical products with that of some developed countries including Australia, New Zealand, Canada and Hungary. The Cairns Group worked closely with the United States during the Uruguay Round until the EU –US Blair House agreement in November 1992 settled for a lower level of ambition in agriculture. In the Doha Round, the Cairns Group worked closely once again with the US, especially during in the first year of the negotiations.

The Cairns Group in its efforts to gain greater access to developed country markets was supported by a significant number of developing countries. A majority of developing countries also wanted to reduce the high levels of trade distorting subsidies of the developed countries as this high level of protection impacted negatively on their development prospects. India and the ACP (African, Caribbean and Pacific) group of countries were, however, concerned about some short-term negative effects of an ambitious multilateral liberalization agenda. The ACP countries feared that faster multilateral liberalization by the EU may erode ACP preferences, with negative consequences for their access to EU markets. India, for its part, was cautious about the liberalization of its market, arguing that its small-scale farmers and rural population of 650 million people required protection from subsidized EU imports.

The EU had been campaigning amongst the ACP countries to support its gradual approach to liberalization and reform of its protection with the argument that this will favour ACP countries by stemming the erosion of their preferences. Thus at the March 2003 Trade Negotiations Committee (TNC) Meeting the EU gained the support of almost 70 countries, including India, in favour of a gradual approach to liberalization on the basis of the Uruguay Round tariff reduction formula. These developing countries were afraid of the potential negative effect of the more aggressive liberalization approach of the Cairns Group and the US on their small farmers, rural development and food security.¹⁰ Developing countries were thus divided and in flux on the agriculture negotiations at this stage of the Doha Round.

Developing Countries Unite Against EU-US Joint Text - the Genesis of the G20

⁷ A group of developed (Australia, New Zealand and Canada) and developing countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand and Uruguay) that are relatively competitive agricultural exporters.

⁸ The text was criticized most severely by Ministers at the Tokyo Mini-Ministerial Meeting held in February 2003. See Harbinson, S., *The Agriculture Negotiations: The Road from Doha and How to keep the Negotiations on a Positive Track*. See also Shitori, M. *et al*, *The EC's Proposal for the WTO Agriculture Negotiations* (UNCTAD 2002).

⁹ During the Uruguay Round, the Cairns Groups constituted a coalition of fourteen countries including: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand and Uruguay. See Hoekman, B., and Kostecki, M., *The Political Economy of the World Trading System. From GATT to WTO* (Oxford University Press, 2001).

¹⁰ See Ricupero, R. "Overcoming the Fear Factor", *Finance and Development*, March 2005.

The EU-US joint text tabled on 13 August 2003 galvanized developing countries into action to prevent another Blair House type agreement that would reduce the level of the round by accommodating the interests of the EU and the US at the expense of developing country concerns. While the Doha mandate envisaged agreement on specific and detailed 'modalities' for the agriculture negotiations, the joint text agreed by the EU and the US sought to limit discussions to establishing a mere 'framework' for the agriculture negotiations just a few weeks before the Cancún Ministerial.

Brazil and India developed a draft framework proposal that very quickly gained the support of other developing countries, including China, South Africa, Indonesia, Philippines, and Argentina. The group, which was later to become known as the G20, was based on the need for developing countries to advance the liberalization and reform of agriculture in the developed world, with concerns for social justice and development in developing countries.¹¹

The G20's first draft text combined the need to be aggressive on the reduction of trade distorting domestic support and the elimination of export subsidies, and enhanced market access in the developed countries, with the need for sufficient flexibilities for developing countries to enhance their rural development, livelihood and food security needs.¹² The text spoke of the need to address the issue of preference erosion, which was a concern of ACP countries, and supported the demand for duty free quota free market access for LDCs in developed countries. The text thus combined the interests of the more competitive agricultural exporting Cairns Group members, such as Brazil, Argentina, Uruguay, Thailand, and the more cautious and less competitive agricultural producers such as Indonesia, India, China, etc. The G20 took a pragmatic approach on the achievement of modalities and sought to develop a "framework", rather than full modalities, to be agreed in Cancun.

The Cancun Ministerial Conference

The Cancún Ministerial Meeting was intended to be a review of progress made in the Doha Development Agenda. The Chair of the Ministerial Meeting, Minister Ernesto Derbez of Mexico, released his second draft Ministerial text on the fourth and penultimate day of the conference. In the formal meeting that followed, developing countries of the G20 and the numerically large African, ACP and LDC groups criticized the Chair's text as an unacceptable basis for negotiations. These countries believed that the text was unbalanced and did not adequately reflect their interests and concerns. Alarmed at the reaction to his second draft text and the attendant possibility of the Ministerial Conference failing, the Chair decided to call the entire conference to a halt a day earlier than scheduled. The unexpected closure of the meeting came as a surprise to all involved.

Assessment – the Failure of Cancun and the Role of the G20

The seeds of the unsuccessful outcome at the 5th WTO Ministerial Conference in Cancun, the first Ministerial Conference since the launch of the Round in Doha in 2001, were sown many months before the event. Agriculture was recognised to be at the heart of the Doha Development Agenda. It was generally understood that progress in the agricultural negotiations would catalyse movement in – and set the pace for – all other areas of the Doha Agenda.

The unexpected closure of the meeting was a particularly great disappointment to the G20. The proximate cause of the breakdown of the Cancun Ministerial Meeting was the so-called Singapore issues. With more time an acceptable compromise could have been found on the Singapore issues. However, on the more fundamental issues of agriculture (including cotton subsidies), the political conditions were not in place to overcome the divide. This was the real cause of the breakdown in the negotiations.

¹¹ Amorim, C. Statement to the 60th Session of the UN General Assembly, 17 September 2005. http://www.mre.gov.br/ingles/politica_externa/discursos/discurso_detalhe3.as

¹² See WTO doc, "Agriculture Framework Proposal", Joint Proposal by Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela, WT/ MIN(03)/W/6, 4th September 2003.

In the lead up to Cancun, the EU – the world’s largest subsidiser of agricultural programmes that harm the livelihoods of the poorest people in developing countries – had failed to table any meaningful proposals to honour its Doha commitment. The March 2003 deadline for the establishment of a methodology for agriculture negotiations was thus missed. The United States – the world’s second largest agricultural subsidiser – had developed an aggressive liberalization posture long before Cancun. Despite having moved in the opposite direction by increasing its own trade-distorting support to its farmers in the US Farm Bill, early in 2002, the US continued to urge the EU to meet its Doha commitments and worked closely with a large group of agriculture-exporting countries led by Australia, Brazil and the Cairns Group.

However, as the Cancun Ministerial drew closer the US shifted to a strategy of bilateral engagement with the EU. The product of the intense bilateral discussions between the EU and the US was an accommodation of each other’s trade-distorting farm support policies. In return for protecting payments under the Farm Bill, the US reduced its ambition to open EU markets and fully eliminate the EU’s destructive export subsidies.

With this compromise in place, the major trading partners sought to undermine the efforts of developing country coalitions to secure fundamental reform of developed country agricultural practices. The pressure on the G20 members from the developed countries was severe. At Cancun, the Minister of Trade of El Salvador announced that he regretted that his country had to withdraw from the G20. The pressure grew and soon after the Conference both Colombia and Peru announced their withdrawal too. Within a few weeks this was followed by the withdrawals of Costa Rica, Guatemala and Ecuador. Yet in spite of this pressure, the G20 did not fall apart. In addition, more countries joined including Zimbabwe and Tanzania, bringing the membership from Africa up to five (including South Africa, Egypt and Nigeria). The silver lining was that developing country negotiators had come of age – they had galvanised a formidable group and skilfully forged a common negotiating position that had captured the attention and sympathy of the world. This was indeed a sound platform for the G20 and other developing countries to continue to negotiate for a fairer and freer global market for agriculture. Thus the G20 had begun to play a welfarist role in defending and advancing the interests of its members in the agriculture negotiations.

The Cancun Ministerial was also significant because it marked the start of the G20’s attempt to play a broader “agency role” by providing leadership to the Round in its engagement with the major players and by striving to build convergence with other developing country groups. In the period after Cancun, the G20 attempted to re-engage and reignite the negotiations by hosting a Ministerial Meeting in Brasilia on 11-12 December 2003, to which Pascal Lamy, the then Commissioner of the EU, was invited.¹³ The G20 Ministerial Communiqué asserted the inclusive approach and consensus-building role of the G20 by pointing to the diversity of its membership, which included countries from Africa, Latin America and Asia. The communiqué recognized the concerns of some developing countries with regard to the vexed issue of preference erosion and supported the need to address the special concerns of LDCs. The G20 also enjoyed support from the African Group, as had been recognised at the Cairo Mini-Ministerial, November 2003.

2. The July 2004 Framework Agreement

In the post-Cancun period the Chairman of the General Council, Carlos Castillo, decided to focus on the issues that were critical to put the Doha negotiations back on track. These included Agriculture, Cotton, NAMA, the Singapore Issues and the “Development issues”. While the intention had been to conclude this process by Mid-December 2003, there was little substantive movement by the major countries in this period: the EU had been involved in a protracted internal process of reflection on Cancun, while the US waited for the EU to revive the process. By the end of the year, the EU agreed to meet with G20 Ministers in Brasilia, and the USTR (Bob Zoellick) sent a letter to all WTO Ministers in the first week of January 2004, changing its tone from rebuke and criticism, to constructive dialogue.

¹³ See G20 Ministerial Communiqué, Brasilia, 12 December 2003.

Thus began the “Pascal and Bob” roadshows,¹⁴ with both Pascal Lamy and Bob Zoellick travelling to several capitals to discuss the re-launch of the negotiations. With the election on 11 February 2004 of the new chair of the General Council and the new chairs of the various negotiating groups, the negotiations recommenced in earnest. The EU and the US began negotiating meetings with the G20. It became clear early in the process that agriculture was the fulcrum of the negotiations and movement on all other issues were linked to it. The US thus initiated an agriculture negotiating group of 5 countries (in the third week of March, 2004) comprising the US, EU, Australia, India and Brazil. The group began to meet regularly (almost 7 or 8 such meetings were held) in the next few months until the end of July 2004. In addition, the group, which became known as the Five-Interested Parties (FIPS), began to meet at Ministerial level to stimulate the process. Mini-Ministerial Meetings (mainly between these five countries) were held in London (1 May), Paris (on the margins of the OECD Ministerial Meetings), in São Paulo (on the margins of the UNCTAD XI Ministerial Conference), in Paris (before the Mauritius G90 Ministerial Meeting), and then finally in Geneva (in the week before the July 2004 General Council Meeting).

The July Framework Agreement was based on the 5 issues referred to above.¹⁵ In the overall evaluation of the agreement presented below, I discuss the progress made by the G20 in advancing their welfarist interests and their agency role in supporting the interests of other developing countries.

The G20 Succeeds in Advancing its Interests in the Agriculture Negotiations – the Welfare Role

The commitment to the elimination of export subsidies and substantial reductions in domestic support, together with the promise of substantial market opening, even for sensitive products, had built the foundations for a potentially ambitious result for the removal of protection and distortions in agricultural markets. In the negotiations, developing countries were successful in ensuring that the principle of “proportionality” and of “lesser reductions” was applied to their commitments. The text had a number of provisions which went beyond the traditional special and differential treatment provisions. In particular, the market access section agreed to allow developing country members to designate an appropriate number of products as “Special Products”, based on the criteria of food security, livelihood security and rural development needs.

With a promise to ensure that the issue of cotton would be dealt with “ambitiously, expeditiously and specifically”¹⁶, the July WTO General Council decided to negotiate the cotton issue within the context of the agriculture negotiations and not as a stand-alone issue that would be fast-tracked as the West African countries had initially demanded. However, this decision was a platform that the developing countries affected by the cotton issues could build on. The July General Council recognized the “complementarity between the trade and development” aspects of the cotton issue and urged the Secretariat to work with the “development community” viz, multilateral and bilateral agencies.

Thus the G20 had played a significant welfarist role in advancing the interests of its members. These decisions also marked an important break towards more balanced and fairer rules in the WTO.

The G20 and Other Developing Country Groups – the Agency Role

While the G20 and the other smaller economies had begun to forge closer relationships there was still some tension between developing countries on preference erosion, and the specific needs of small and vulnerable economies (SVEs). Here the EU had stolen a march on the G20 with Pascal Lamy, the then Commissioner of the EU, calling for SVEs to be granted a “round for free”. However, the text did reflect an emerging compromise as these small and vulnerable economies were becoming increasingly assertive and organized in the G90 group of developing countries (comprising the ACP, African and LDC groups).

¹⁴ Zoellick travelled to nine countries in ten days, including India, China, Indonesia (ASEAN), Pakistan, South Africa, Mombasa, Kenya (18th February). He also attended the CAIRNS Group meeting in Costa Rica (23rd February).

¹⁵ See Ismail, F. “A Development Perspective on the WTO July 2004 General Council Decision”, Journal of International Economic Law, Vol. 8 (2), 377-404.

¹⁶ See WTO WT/L/579 2 August 2004.

The G20 had played a role in forging this compromise but had yet to meaningfully engage with these issues of concern to the smaller developing countries.

The agriculture negotiations, despite being largely successful in the final week of the July General Council meeting in building a compromise, was criticised for not being conducted in a transparent manner. The most intense part of the negotiations was conducted amongst a small group of five countries – the US, EU, Australia, Brazil and India – which excluded the vast majority of developing countries and their coalitions. Although Brazil and India represented the G20, the detail and complexity of the negotiations and the differences in interest amongst the members of the G20 required greater transparency and inclusiveness. In addition, the other major groups were largely left out of these negotiations. These included the African ACP and LDC Groups. A more inclusive negotiating process would need to be found for the continuation of discussions after July.

Non-Agricultural Market Access and the July Framework Agreement

In the area of industrial products or non-agricultural market access (NAMA), the Doha mandate agreed to “reduce or as appropriate eliminate tariffs...in particular of export interest to developing countries”.

The WTO had agreed that the deadline for modalities for NAMA should be at the end of May 2003, after the modalities on Agriculture were scheduled to be agreed in the Doha mandate at the end of March 2003. Thus the chair of the NAMA negotiating group, prior to Cancún, Ambassador Girard, began work on developing these modalities. A number of countries put forward proposals for tariff cutting formulae. The chair modified these proposals and advanced his own compromise formula and proposal – “Elements of Modalities for Negotiations on Non-Agricultural Products,” – known as the Girard Proposal.¹⁷ The Girard proposal contained a number of elements including: a formula for tariff reductions, a sectoral approach, special and differential treatment provisions, recognition of the particular situation of newly acceded countries, a supplementary approach that included zero for zero, sectoral harmonization and request and offer approaches, negotiations to reduce non-tariff barriers and the provision of technical assistance to developing countries during the negotiations.

Despite being roundly criticized by developed and developing countries, the Girard formula succeeded in providing a basis for the negotiations on modalities for non-agricultural market access. However, as the process of developing modalities was diverted both by the failure to reach agreement on agricultural modalities at the end of May 2003 and by the EU – US Joint Text on 13 August 2003, the WTO decided to also produce only a “Framework Agreement” for the NAMA negotiations in Cancún, in line with the Agriculture negotiations.

Annex B of the Cancún Text “Framework for Establishing Modalities in Market Access for Non-Agricultural Products” was criticized by developing countries, before, and at Cancún, for being biased in favour of developed countries and not paying sufficient attention to the principle of “less than full reciprocity” called for by the Doha mandate.¹⁸ In particular, the Cancún Text was criticized by developing countries for calling for a “non-linear formula” and mandatory sectoral tariff reductions.¹⁹ The Cancún Text was not adopted due to these criticisms and the collapse of the meeting.

In the period leading up to the July 2004 Ministerial Meeting, some of the major trading countries began to display flexibility in their approach to the NAMA Framework. Bob Zoellick, the USTR, in his conciliatory letter to WTO Ministers in January 2004 called for both ambition and flexibility. However, in the negotiations in the months before the July General Council meeting developed countries began to insist

¹⁷ See WTO TN/MA/W/35, 16 May 2003.

¹⁸ see WTO JOB (03)/150/Rev.2

¹⁹ see paragraph 3 of Annex B. Some developing countries argued that when this is applied to their own tariff reductions, it would create relatively significant adjustment burdens compared to that of developed countries whose tariffs were relatively low already. Some developing countries were willing to entertain the possibility of sectoral negotiations but only if this was decided on a voluntary basis. They feared that the burden of adjustment for them would be relatively large especially if the most sensitive of their sectors were targeted for sectoral tariff reductions.

that the Cancún Text (referred to as the Derbez Text) should not be amended but accepted as is, in spite of the criticisms and objections of developing countries..²⁰

At this stage the only possibility that remained for developing countries was to ensure that the Derbez Text remained open to negotiation and that the views and perspectives of developing countries could be included in the Post July negotiations for the development of Modalities. Thus, Annex B of the July Package on NAMA called for additional negotiations on the elements of the Derbez Text, relating to the treatment of unbound tariffs, the flexibilities for developing countries, participation in sectoral negotiations and the issue of preference erosion.²¹

An Evaluation of the NAMA text

Developing countries thus succeeded in ensuring that the Derbez text, which was perceived as biased in favour of developed countries, was not imposed on them. The July Framework agreement on NAMA made it possible for elements of the Derbez text to be further negotiated, and ensured that the outcome of the negotiations on modalities would be more balanced, taking into account the interests of developing countries. The debate on the substance of the “framework” was thus postponed.

Developing countries were fragmented at the time of the July Framework Agreement on the approach to the formula for tariff cuts. However, they did succeed in ensuring that the opportunity to further negotiate the modalities was not foreclosed.

3. Hong Kong Ministerial Conference

On the Road to Hong Kong...

In preparation for the Sixth WTO Ministerial Conference in Hong Kong, several informal small-group consultative processes were used to build consensus. A series of mini-ministerial discussions involving various delegations were held in early 2005, including at Davos, Switzerland (26-30 January), Mombasa, Kenya (13-14 March) and Dalian, China (12-13 July). The G20 held preparatory meetings at Ministerial level in New Delhi, India on 18-19 March 2005 and then again in Bhurban, Pakistan on 9-10 September 2005.

The FIPs process was also remobilized This group again began to engage on the substantive issues in the agriculture negotiations, from the beginning of 2005 onwards. However, several meetings of this group at both the level of senior officials and Ministerial level failed to make much progress towards the development of modalities in Agriculture. In light of this, the FIPS group was further rationalized to only four members – the EU, US, India and Brazil. This new grouping, which became known as the G4, met at ministerial level in London, 8 July 2005, to discuss how a balance could be struck in the overall Doha deal.

Dubbed the ‘New Quad’, this group including the Brazilian Minister of Foreign Affairs, Celso Amorim, the Indian Minister of Commerce and Industry, Kamal Nath, the EU Commissioner, Peter Mandelson, and the USTR, Ambassador Robert Portman, met again in Paris, 23 September 2005 to discuss the Hong Kong Ministerial Meeting. This meeting was followed by a Meeting of the FIPS (the above four plus Minister Mark Vaile from Australia). This group was further expanded to include Ministers from Japan, Switzerland, Korea, China and Argentina – the so-called FIPS Plus group. A series of Ministerial Meetings held thereafter between 10-13 October 2005 in Zurich of the FIPS; and the FIPS Plus, did help to partly break the stalemate in the negotiations.

On 10 October 2005, the US offered cuts in domestic support ((60 percent cut on the Amber Box), which, though falling short of the G20’s demands, was seen as a positive contribution by most members. The focus thus shifted to the EU, which had to make a commensurate move on Market Access. However, in its

²⁰ Developed Countries created an informal negotiating group to support the Derbez Text called “Friends of Ambition”.

²¹ See paragraph 1 of Annex B. WT/L/579. 2, August 2004.

28 October 2005 proposal the EU was widely criticised for not adhering to the Doha mandate.²² On agricultural market access for developed countries, the EU offer proposed a 39 percent average cut and wide ranging flexibilities, whilst for developing countries it proposed a cut of up to an average of 70 percent under the use of a Swiss Formula (Swiss 15), with restrained flexibilities. The EU however was perceived to have made the least effort and Mandelson was under enormous pressure to improve the EU offer.

In the period leading up to the Hong Kong Ministerial Meeting, the WTO Director General, Pascal Lamy called for the expectations of the conference to be lowered. One of the main players, the EU, was unable to make a proposal that could be a basis to negotiate a successful outcome on agriculture modalities. Prior to this, the July 2004 WTO General Council decision had already reduced the target of reaching full modalities in Hong Kong to establishing the broad framework of the agreement. The Hong Kong Ministerial Meeting had as its objective to make some additional incremental advances on the July 2004 Framework Agreement. Once again this would fall short of the objective of concluding the negotiations on full modalities in Agriculture and NAMA.

What Happened in Hong Kong?

After six days of intense negotiations in Hong Kong, 13–18 December 2005, Ministers managed to cobble together an agreement late on the last night of the conference, 18 December, several hours past the agreed deadline. For the major developing countries in the G20 the agreement was no major breakthrough, but a small and significant step forward in the Doha Round.²³ For LDCs and other small and vulnerable developing countries, there were some incremental gains made in the Hong Kong Declaration, but no breakthrough emerged on their major demands. The results of the negotiations in Hong Kong are briefly evaluated below.

An Evaluation of the Agriculture Text – the G20 plays a Welfare and Agency role

Whilst there was no substantial advance in Hong Kong, there were some significant gains made by developing countries. These included an agreement on an end date for the elimination of export subsidies and the inclusion of the G33's concerns on special products and special safeguard mechanisms. For smaller developing countries, there were some incremental gains in the Hong Kong Declaration: SVEs were recognized in the text as a developing country grouping with special concerns that needed to be addressed; LDCs succeeded in gaining concessions on Duty-Free Quota-Free Market Access in developed and developing country markets, in spite of attempts to divide African and Asian LDCs; and the Cotton 4 were able to achieve significant recognition of their concerns including an undertaking to eliminate export subsidies on cotton.

The G20 played an active role in supporting the demands of each of these developing country groupings throughout the conference. Whilst the G20 had not made major advances in gaining concessions on its own proposals in Hong Kong, it had succeeded in strengthening alliances with other developing countries. The most prominent example of this was the emergence of the G110 alliance in final stages of the Ministerial, between the G-20, G-33, ACP, LDC, African, CARICOM, Cotton-4, SVEs and NAMA-11. The alliance, which came together out of discussions between the G20 and G90, met twice at ministerial level and produced a joint statement. Although the G110 formed spontaneously during the Ministerial negotiations, it was in many ways a product of the G20 and NAMA 11's continuing efforts to engage with other developing country groupings since the Cancun Ministerial meeting.

²² The EU offer proposed a 39 percent average cut in Agriculture and wide ranging flexibilities in market access for developed countries, whilst for developing countries it proposed cut of up to an average of 70 percent under the use of a Swiss Formula (Swiss 15), with restrained flexibilities.

²³ Celso Amorim, the Brazilian Minister of Foreign Affairs and Trade and the co-ordinator of the G20 was quoted in the Financial Times (19/12/2005) as saying that the decisions reached in the Hong Kong Declaration was "modest but not insignificant".

An Evaluation of the NAMA Text and the Formation of the NAMA 11

Prior to the Hong Kong Ministerial, there were divergences between developing country positions on the tariff reduction formula to be adopted in the NAMA negotiations. However, in the build up to the Ministerial Conference, the EU's submission, 28 October 2005, served to unify developing countries on the need to defend the flexibilities they had succeeded in obtaining in the July 2004 Framework Agreement.²⁴ This united front was further consolidated in Hong Kong where Ministers of the so-called NAMA 11 presented joint proposals in the negotiations on NAMA.²⁵ Although developing countries were forced to make some significant concessions during the negotiations, including the commitment to apply a non-linear formula, the creation of the NAMA 11 helped ensure that in making tariff reductions the principle of less than full reciprocity would be adhered to for developing countries and that appropriate flexibilities would be provided. The NAMA 11 was also establish a strong link in the final text of the Hong Kong Ministerial Declaration between the level of ambition in NAMA and the level of ambition in Agriculture.²⁶

While there were no significant gains made in Hong Kong on NAMA, the formation of the NAMA 11 (representing the more advanced developing countries that were required to make formula cuts) had ensured that developing countries were able to defend themselves against agreeing to more onerous obligations in NAMA. Most importantly, the NAMA 11 was to become an important platform to build stronger links with other developing country groupings in the WTO and, thus, started to play an agency role similar to that of the G20 in the agriculture negotiations.

4. From Hong Kong to the Suspension of the DDA in July 2006.

This section will briefly set out the process of the negotiations up to the end of the April 2006 deadline for modalities and then proceed to set out the process to the end of June and end of July 2006. The suspension of the negotiations at the end of July 2006 will be briefly evaluated.

From Hong Kong to the Missed April 2006 Deadline

A month after Hong Kong, Ministers from a select group of countries met on the margins of the Davos World Economic Forum, 28 January 2006, to propose a work plan for trade negotiations that year.²⁷ The first crucial deadline on which Ministers had agreed to in Hong Kong was that modalities on Agriculture and NAMA should be concluded by 30 April 2006. On Services the Ministers agreed that plurilateral requests should be submitted by 28 February, and that the second round of revised offers be submitted by 31 July. Ministers agreed that the deadline for the conclusion of the Round was the end of 2006. The WTO General Council Meeting agreed to this work plan on 7-8 February 2006.

The 2006 March G6 Ministerial Meeting in London

The period before April 2006 was dominated by the meetings of the G6. Senior officials meetings of the group took place in Paris (25-26 February) and in London (7-9 March). This process culminated in the Ministerial Meeting of the G6 that was held in London on 10-11 March. The Ministerial Meeting of the G6 was attended by Ministers of the EU, US, India, Brazil, Australia and Japan. The meeting focussed on all the main issues of the DDA, including Agriculture, NAMA, Services, Rules and Development issues. Reports of the meetings indicate that both the EU and the US hardened their positions and reflected very little flexibility.

²⁴ See TN/MA/W/65 "Market Access for Non-Agricultural Products. Flexibilities for Developing Countries" Communication from Argentina, Bolivarian Republic of Venezuela, Brazil, China, Egypt, India, Indonesia, Namibia, Pakistan, Philippines and South Africa, 8 November 2005.

²⁵ See letter by the above countries, including Tunisia, sent to the Chairman of the Conference and the Director General at the Hong Kong Ministerial Conference.

²⁶ See Para 24 of the "Ministerial Declaration," Doha Work Programme, WT/MIN (05)/DEC, 22 December 2005.

²⁷ Financial Times, Ministers promise to accelerate pace of Doha talks, 30 January 2006.

The EU, represented by both Commissioners Peter Mandelson and Marianne Fisher Boel, argued that it had already made substantial movement in reforming and opening the EU market through the recent Common Agricultural Policy (CAP) reforms. The EU continued to call on the US to increase its commitments on Domestic Support beyond the US offer made on 10 October 2005 to cut 60 percent cut of its Amber Box trade distorting support. The US argued that it had made a significant offer on domestic support and that there was still nothing proposed by others that warranted it keeping that offer on the table. The USTR, Bob Portman, and the Secretary of Agriculture, Mike Johanns, stated that they had consulted all the major commodity groups and all the chairs of the relevant committees in the US Congress before coming to the London Meeting. These groups stated that the US should take its 10 October 2005 offer off the table if the EU and the major developing countries did not make significant offers on Market Access.

At the same Ministerial Meeting, the US was reported to have criticised the G33 positions on Special Products (SP) and the Special Safeguard Mechanism (SSM) in the Agriculture negotiations and also to have joined the EU in criticizing the paragraph 8 flexibilities called for by the NAMA 11 in the NAMA negotiations.²⁸ The EU and US made no concessions on these issues, and instead questioned the need for such flexibilities. In the discussion on NAMA, the EU, US, Japan and Australia argued that they were looking for real and effective market access in NAMA and this would mean that they would evaluate the cuts from any formula on the *applied rates* of developing countries, such as India and Brazil.

The April 2006 Deadline is Missed

At the beginning of April, Pascal Lamy was determined to ensure that the WTO did not miss the April deadline again, at least without considerable effort. He suggested that negotiating the deal on Modalities would require movement on all three angles of the “Triangle,” that is agricultural market access, agricultural domestic support and industrial market access (NAMA). However by the third week of April there was insufficient progress on any of these sides of the triangle.

In the WTO, Pascal Lamy called an informal TNC meeting on 21 April and stated that he did not think it wise to hold the proposed Ministerial Meeting at the end of April.²⁹ He called for the process to shift to Geneva as the Ministerial meetings of the G4 and G6 had not proved useful. He called for the negotiations to be text based and, with an intensive bottom-up process, to continue in Geneva. The Geneva process would be co-ordinated by the Chairs of the Agriculture and NAMA negotiating Groups. He appealed to members to desist from a blame game and to ensure that negotiations on modalities were concluded well before the end of July. Thus, the April deadline was missed and the moment of truth that Pascal was hoping for at the end of April had been allowed to be postponed once again.

Another Failed Attempt to Conclude Modalities in June/July 2006

At the TNC meeting on 30 May, Director-General Pascal Lamy, set out his vision of a three phased process: firstly, the drafting of texts by the chairs of Agriculture and NAMA by the 19th of June; secondly, consultation on these texts (with possible green rooms); and, thirdly, Ministers were to meet at the end of June (29 June – 2 July).

The Chairs presented the first drafts of their modalities texts on 22 June with the NAMA chair revising his text on 26 June.³⁰ DG Lamy began a process of consultations on these texts on 26 June with informal meetings of Ambassadors and informal meetings of the TNC. The text on agriculture produced by the Chair, Crawford Falconer, followed the same structure of his earlier reference papers, with sections on

²⁸ The WTO July 2004 Framework Agreement agreed to provide developing countries with a small percentage of flexibility to protect some tariff lines from increased cuts or to reduce these lines by a small percentage than the average cut specified in the agreed formula.

²⁹ International Herald Tribune, Trade talks to miss key April 30th deadline, 25 April 2006.

³⁰ WTO Job (06)/199, Draft Possible Modalities on Agriculture, 22 June 2006; WTO Job (06)/199/Corr.1 Draft Possible Modalities on Agriculture, 29 June 2006; and WTO, Job (06)/200/Rev.1 Towards NAMA Modalities Revision, 26 June 2006.

market access, domestic support and export competition and other issues. The Chair simply reflected member's views, setting out the divergences in about 740 brackets! The G20 produced detailed commentary on the text and was of the view that the Chair's text was a fair representation of the position of members.

The G6 and the Informal Ministerial Meeting of the TNC – end June 2006

The Ministerial Meetings of the G6 set the pace and tone of the proceedings at the end of June TNC meetings. Ministerial Meetings of this Group were held on 29 June, 30 June and 1 July. These Ministerial Meetings were preceded by an unsuccessful meeting of G6 Senior Officials, held on 14 June.

The G6 met on several occasions at Ministerial level during the week of the end of June, in Geneva. The discussions were both on process and substance. DG Pascal Lamy was present at these meetings. During the first of such meetings held on the 29th of June, the discussion focussed on the three sides of the triangle. This sub-section will discuss the deliberations of the G6 on the three sides of the "Triangle" that relate to agricultural market access, agricultural domestic support and non-agricultural market access.

On Market Access: Peter Mandelson stated that he was willing to move towards the G20 proposal of a 54 percent cut in the agricultural market access negotiations. He did not specify what his new proposals on sensitive products and their treatment were. The G33 had called for 20 percent of tariff lines to be designated by developing countries as Special Products. The US had called for these products to be limited to 5 tariff lines per country. In addition, the G33 called for a Special Safeguard Mechanism (SSM) that would enable these countries to act against rapid increases in imports. The Ministers of Trade of Indonesia, (the chairs of the G33), and India argued that these flexibilities required by the G33 were already agreed to in principle by the Hong Kong Ministerial Meeting. The US argued that these flexibilities – the so-called SSS (sensitive products, special products and special safeguard mechanism) – would block its exports and that 94 percent of its exports to these countries could be prevented from being exported if the current proposals of the EU, the G10 and the G33 were accepted.

On Domestic Support: Peter Mandelson tested the willingness of the US to move on domestic support cuts in the G6 Ministerial meeting. The US had made an offer of a 53 percent cut in overall trade distorting domestic support in its 10 October 2005 offer (a 60 percent cut in its Amber Box support). The G20 proposal had called for a 75 percent cut in the overall trade distorting support of the US. Celso Amorim indicated that current US spending on trade distorting support was in the area of \$19 billion. The G20 proposal would bring current US spending down to \$12.5 billion. Amorim reported that in an earlier offer, made by Bob Portman at a Ministerial Meeting with Peter Mandelson in Brazil, the US proposed moving its overall trade distorting support down to between \$14 and \$13 billion. The offer the US made in October 2005 would have allowed the US to increase its spending by between \$2-\$3 billion to almost \$23 billion and above its current level of spending.³¹

On the NAMA side of the "Triangle", Minister Amorim and Kamal Nath reported to the NAMA 11 Ministerial Meeting held on 29 June that in the G6 Ministerial Meeting the EU, US, Japan and Australia had insisted that the NAMA 11 countries undertake tariff cuts adopting a Simple Swiss formula with a coefficient of 15. Amorim and Nath stated that they rejected this proposal as being unreasonable, too onerous and against the mandate.³² The NAMA 11 Ministerial Meeting adopted a communiqué that called for a 25 point difference between developed and developing countries.³³ The NAMA 11 emphasised that its approach was based on the two main principles of less than full reciprocity, and the need for a

³¹ Peter Mandelson reportedly asked Susan Schwab in the G6 Ministerial meeting that if the EU moved to above the G20 proposal of a 60 percent average cut in market access, would the US be prepared to move towards the G20 on its domestic support offer. Susan Schwab indicated that the US was unable to move. She was reported in the press as saying that she would not respond to a hypothetical question.

³² WTO Reporter, *Hopes for Modalities Deal Diminish As G-6 Meeting Ends Without Progress*, 30 June 2006.

³³ WTO, *NAMA 11 Ministerial Communiqué*, 29 June 2006, Geneva.

comparable level of ambition in Agriculture and NAMA negotiations as agreed in paragraph 24 of the Hong Kong Declaration.³⁴

About 55 Ministers had gathered in Geneva at the end of June to participate in the WTO TNC meeting to conclude the negotiations on modalities. Pascal Lamy first invited some 33 Ministers to an informal Ministerial Meeting on 30 June and then began a plenary informal TNC Meeting with Ministerial participation. The Informal Meeting of Ministers met again on 1 July and the TNC was called that afternoon to announce the end of the process as Lamy recognized that Ministers had failed to make any significant progress, with the gaps in their positions being too wide apart to be bridged in the next few days.

However, as a result of the St Petersburg G8 discussions on the Doha Round on 15 July, the Ministers of the G6 (except Australia that was not present) met again in Geneva on Monday evening, 17 July. They agreed to attempt to translate the indications of flexibility of their leaders into negotiating positions, after consulting with their constituencies. They also agreed to a programme of further meetings, on 23-24 July and again on 28-29 July.

The G6 Ministerial Meeting in July 2006

The G6 Ministerial Meeting, chaired by Pascal Lamy, held 23-24 July (Sunday and Monday) in Geneva, met for 14 hours, but failed to make progress on the substance of the negotiations. As a result, Pascal Lamy convened an urgent TNC meeting on 24 July to report back to the membership. At the informal TNC, Pascal stated that the only course now was to suspend the negotiations across the Round, providing everybody timeout to review positions. The deadlines for the other issues in the Round would now need to be revised.

Evaluation of the Suspension of the Doha Round

There are three broad trends that can be identified in the positions of the EU and the US during the end of June 2006 TNC Ministerial Meeting and end of July G6 Ministerial Meetings. Firstly, the EU having learnt from the Hong Kong experience, where it was isolated, now shifted its stance indicating more flexibility in its defensive positions on agricultural market access. Peter Mandelson had indicated that he could move from their current offer of a 39 percent average cut to a 47 or 48 percent cut.³⁵ He did not specify any willingness to move on sensitive products (the current EU demand was for 8 percent of tariff lines) or the extent to which they would deviate from the formula on these sensitive products.³⁶ Nor did the EU indicate any movement on the treatment of these sensitive products (i.e., the formula for quota expansion and extent to which the tariff cuts will deviate from the average cut).

Secondly, the US was increasingly isolated in its negotiating posture at the end of June TNC meeting. The USTR was constrained by an increasingly protectionist US Congress, facing a mid-term election in November 2006. Thus, the end of June TNC Meeting in Geneva saw a shift in the focus of the WTO members from the EU's recalcitrance and inability to make further improvements in market access to US reluctance to make cuts in its trade distorting domestic support.

Thirdly, the EU and the US remained united in their common front against the so-called "advanced developing countries" to open their markets in NAMA. Peter Mandelson called for the outcome of the negotiations to produce "effective cuts and real trade flows". In NAMA he stated that the EU required "real cuts that cut through the water and cut flesh". He stated that this could be done with a Swiss 15 formula for

³⁴ The WTO Hong Kong Declaration agreed that developing countries shall reduce their tariffs by a lesser margin than developed countries (Less Than Full Reciprocity) and that the depth of the tariff cuts in NAMA shall be comparable to that in Agriculture (paragraph 24).

³⁵ The Wall Street Journal, EU hints at farm-tariff flexibility, 24 May 2006. See also International Herald Tribune, 31 May 2006.

³⁶ "Sensitive products" refers to the decision agreed in the WTO July 2004 Framework that developed countries will be allowed to reduce the tariffs that they deem sensitive and that they wish to protect by lesser percentage of tariff cut than the average tariff cuts agreed in the formula.

developing countries. On NAMA, the USTR stated that developing countries need to cut their current (applied tariff) rates to provide increased market access for inputs from their trading partners.

The G20 and the NAMA 11 Continue Welfare and Agency Roles

Although Brazil and India were involved in the G6 process in their individual capacity and not as formal representatives of the G20 or NAMA 11, they both articulated the positions of these coalitions and repeatedly reported back to the rest of the members at Ambassadorial and Ministerial level. Brazil and India's negotiating positions during the G6 process were supported by the strong technical back-up and united positions of the G20 and NAMA 11. In the period up to the suspension of the negotiations, they were able to effectively defend and advance the welfarist interests of these groups.

The G20 and the NAMA 11 continued to play a broader agency role too. Once again the G20, after the suspension of the negotiations by the DG, took the initiative to attempt to resume the Doha Negotiations and held a Ministerial Meeting in Rio de Janeiro, Brazil on 9-10 September. The G20 also invited the co-ordinators of the G33, ACP, LDC, African, SVEs, Cotton 4 and NAMA 11 groups.³⁷ The G20 and developing country co-ordinators also met with Peter Mandelson, the EU Commissioner, Shoichi Nakagawa, the Japanese Minister of Agriculture, Forestry and Fisheries of Japan and Susan Schwab, the new US Trade Representative, and called on these Ministers to help resume the negotiations as soon as possible.

5. The collapse of the G4 in Potsdam and the July 2007 Agriculture and NAMA Texts (first drafts)

In early January 2007 there was a flurry of bilateral activity between the EU and the US on the Doha Round, including high level visits to the US by senior EU representatives and a meeting at the White House between President Bush and the Head of the EU Commission, Manuel Barroso on 8 January 2007. Bush and Barroso were reported to have instructed Susan Schwab and Mandelson to produce a deal "as soon as possible."³⁸

The Geneva Process

The informal WTO TNC meeting held on 31 January 2007 provided a mandate to the chairs of the negotiating groups to begin the process of negotiations across all areas of the DDA: Chair of the Agriculture Negotiations, Crawford Falconer, called small informal "fireside chats" with a cross section of members; the Chair of the NAMA negotiations, Don Stephenson, called his meetings, "caucuses"; and, the Chair of the Services negotiations, Fernando de Mateo, called his meetings "enchiladas".

The G4 Ministerial Meetings in New Delhi – April 2007

In March 2007 a process of bilateral discussions between the G4 countries (EU, US, India and Brazil) and then G6 (including Japan and Australia) began at the senior official and ministerial level. The ministerial meetings of the G4 and the G6 that were held in Delhi on 11-12 April were the first such ministerial meetings since the failed July 2006 ministerial meetings in Geneva. The new round of meetings did not reach any agreement on the substance, but it did make some progress on the negotiating process to be followed – in the words of Peter Mandelson, there was a "course correction". Countries agreed to meet again in a series of meetings that would culminate in a final negotiating meeting on modalities in Potsdam, Germany on 21 June 2007.

The Collapse in Potsdam on 21 June 2007

The G4 Ministerial meeting held in Potsdam from 19-23 June collapsed on the third day of the scheduled 4-5 day meeting. All four Ministers (Susan Schwab, Peter Mandelson, Kamal Nath and Celso Amorim)

³⁷ See WTO Doc Job (06)243, G-20 High Level Meeting with Co-ordinators of Developing Country Groups, Press Statement, Rio de Janeiro, 9 September 2006.

³⁸ Financial Times, 9 January 2007.

went to Geneva the next day to meet with Pascal Lamy, and report to him separately. Each of them explained to him their version of the breakdown in the talks. Celso Amorim, the Foreign Minister of Brazil, reported back to the G20 Ambassadors, on Friday 22 June and the DG Lamy called a TNC meeting that afternoon to report to the full membership of the WTO.

Celso Amorim dispelled the rumour that Brazil and India had walked out of the meeting. He explained that after the first day of discussions, it became clear that the US and EU could not move significantly from their October 2005 proposals. Amorim compared the situation in Potsdam with that in the period before Cancun, where both the EU and the US (in the EU-US Joint Text), forged an agreement between themselves based on an accommodation of their own concerns and comfort levels. According to Amorim, the EU and the US did not confront each other on either the reductions needed in domestic support or tariff cuts on market access in agriculture, but instead were eager to shift the discussion to NAMA and to jointly confront Brazil and India.

US – Domestic Support

On the issue of Overall Trade Distorting Support (OTDS), Mike Johanns, the US Secretary of Agriculture, offered a reduction in US spending to slightly below \$17 billion. Mandelson suggested that the US had some further flexibility. This figure, according to Amorim, was still 60 percent more than the US spent in 2006 (about \$10.8 billion). Amorim stated that this fell far short of an effective reduction. The G20 required a reduction in the US OTDS that was significantly below the 10 year average of \$15.6 billion and close to the G20 proposal of \$12.9 billion. Even this would allow the US sufficient “headroom” according to Amorim. The EU would then need to make a cut that was 10 percent more than the US percentage reduction. The reform of the CAP allowed the EU to do more than this. On the need for product specific caps in the Amber and Blue boxes, Amorim stated that the G20 only agreed to the new blue box in July 2004 on the condition that there would be disciplines that prevented product and box shifting by the US.

EU – Market Access

When the discussion moved to the need for the EU to move on market access, Amorim stated that he was very surprised that the US sat back and left Brazil to argue the case alone. There was a need to clarify the final percentage cut of the EU “sensitive” products and their treatment. In the case of Brazil about 47 percent of its exports would be affected by the products the EU deemed to be “sensitive”. The EU did not want to discuss the cuts and treatment of sensitive products. Amorim was left with a distinct impression that the EU and US may have reached a bilateral agreement on the level of TRQs that the US would obtain. On the issue of the special safeguard (SSG) for developed countries – which the G20 wanted to have eliminated – the US did not put any pressure on the EU. In addition, both the EU and the US argued for the extension of the Peace Clause. There was some discussion on Special Products, but this was left to the US officials and India to negotiate bilaterally.

There was some progress in the G4 Potsdam meeting on the issue of export competition. Here there was convergence between the EU and the US on food aid and export credits. However, there was no progress on the need for the EU to eliminate substantially all export subsidies, by 2010, in volume terms.

Pressure on NAMA!

Amorim reported that the pressure then moved to India and Brazil on NAMA. Both the EU and the US demanded a Swiss 18 formula cut for developing countries. Brazil and India argued that with the numbers that the US and the EU were offering on agriculture they were not willing to accept a formula cut greater than Swiss 30. In any event, Amorim argued that research undertaken by Brazil revealed that a cut of Swiss 30 in developing country tariffs would yield more market access for developed countries than a cut of Swiss 8 provided to developing countries in developed country markets. Amorim stated that Brazil was willing to be flexible if the US and the EU moved from their current offers in agriculture.

The July 2007 Agriculture and NAMA Chair's Texts

The day after the collapse of the Potsdam meeting, Pascal Lamy called on the chairs to continue with the drafting process. WTO members had become increasingly frustrated with the G4 process and its inability to deliver significant compromises. Indeed, since April 2007 Pascal had been calling for the multilateral process to be intensified. After consultations with members, the chairs began to draft texts on Agriculture and NAMA on 17 July 2007.³⁹

An Evaluation of the First Draft Agriculture Text

The G20 reaction to the agricultural text has been largely positive. Amorim, who attended the G20 meeting in Geneva on 19 July, stated that the text had moved in the direction of the G20's objectives. However, the Chair also took great pains to be inclusive and accommodate the concerns of all the members, especially the developed countries so that they did not reject the text at the outset. On some issues, such as special products, tropical products, preference erosion etc, the text remains incomplete. Nonetheless, it represents a building block to facilitate further negotiations. On the central issues of domestic support and market access, the chair provided room both for the G20, and the EU, US and the G10 (more defensive group led by Japan) to negotiate from positions that are not so far from their original proposals.

On OTDS the Chair's text provides a range between a 66 percent and 73 percent cut (\$16.4 billion and \$13 billion) from the US initial bound OTDS of \$48.2. Thus the starting point is slightly lower than the US proposed cut in Potsdam (slightly below \$17 billion dollars). The US 10 year average (1995 – 2004) was \$15.9 billion whilst their 2006 level was \$10.8 billion. The G20 had proposed a cut that would bring the US down to \$12.5 billion dollars.

On market access the Chair's text is more specific on formula cuts. However, in the flexibilities provided to developed countries, the deviation in the formula cuts for sensitive products and the provision of market access through quotas (TRQs) are unclear. In addition, the Chair's text makes provision for the retention of the Special Safeguard (SSG) for certain products required by developed countries. For Japan and other G10 countries that have refused a tariff cap, and which have more than 5 percent of tariff lines that are over 100 percent, the text seeks to accommodate them provided they contribute increased quotas. The chair's text also adopts formula cuts in bands that are close to those proposed by the G20 and which provide a range of between 52.3 percent and 56.8 percent cut. However, this leaves open the possibility of a deviation from the formula cuts in the top band (highest tariffs over 70 percent) of between one third and two thirds.

In the formal negotiating session on agriculture the Chair's draft text was generally felt to be a good basis for negotiations. The G20 called for the gaps and imbalances in the text to be addressed in the next revised draft.⁴⁰ The need for the US to make effective cuts in the "very low teens" and the EU and Japan to cut the very considerable "water" in their domestic support commitments was stressed. The G20 stated that the chair's proposed cut in the EU OTDS would not remove all the "water" in the EC's commitments and will still fall short of binding the EU CAP reform. On market access the text was criticized for a lack of clarity on the results to be achieved from sensitive products and TRQ treatment, and the lack of proposed tariff cap for developed countries. The G33 criticized the text for putting greater pressure on developing country tariffs than developed country tariffs, and for not specifying in more detail the modalities for SP and the SSM.

The EU stated that they would accept the text as a working basis, but emphasised their desire to have a greater percentage of tariffs declared as sensitive and the lines to be designated at the 8-digit level. The EU also emphasized its need for the continuation of the SSG for a limited number of products and linked their willingness to accept a cut in the top tier of OTDS with the level of ambition developing countries demonstrate in the NAMA negotiations. The EU also stated that they will not agree to agriculture or NAMA

³⁹ See WTO doc, Job (07)/128, 17 July 2007, [Draft Modalities for Agriculture](#), and WTO doc, "G20 Speaking Notes", Special Session of the Committee on Agriculture, 24 July 2007

⁴⁰ WTO doc, "G20 Speaking Notes", Special Session of the Committee on Agriculture, 24 July 2007

modalities without some positive outcome in the negotiations also on GI extension and a GI register. The US criticized the market access pillar for being too underdeveloped and only conceptual at best. The US objected to the chair's proposals to apply the Hong Kong ministerial decision on modalities for cotton. The US argued that it would wait for the outcome of the negotiations on OTDS, before deciding on the level of ambition for cotton. The US was also not prepared to agree to the middle of the chair's range of \$13 – 16.5 billion. The US stated that they would only be able to move further on domestic support when they can "secure significant real increases in market access". The US argued for the extension of the Peace Clause and called for the elimination of the SSG.

An Evaluation of the First Draft NAMA Text

In the NAMA negotiations, the Chair's text provides a range of Swiss formula coefficients between 19 and 23 for developing countries, and between 8 and 9 for developed countries. This amounts to an average cut of, between 62 and 57 percent for developing countries, and an average cut of, between 31 and 33 percent for developed countries. On the flexibilities for developing countries the text opens the brackets of paragraph 8. For countries that did not want to use paragraph 8 flexibilities, such as Mexico, the text provides a flexibility that provides for a reduced percentage cut (b plus 3). However, on the need expressed by South Africa and SACU for additional flexibilities, the chair says that he is "unable to conclude on this issue without further consultation".⁴¹

In response to the text, the NAMA 11 made statements both in the negotiating group on market access (NGMA) and the TNC that criticised the Chair's draft text for being imbalanced in prescribing a level of ambition for developing countries that is disproportionate to that provided for developed countries and for jumping ahead of the Agriculture negotiations. The NAMA 11 argued that the Chair's text had specified a narrow range of modalities in NAMA (whilst the agriculture text provided wide room for further discussion) and had thus undermined the link established in Hong Kong between the level of ambition in NAMA and in Agriculture.⁴² The statements of the NAMA 11, both in the NGMA and the TNC, discredited the chair's text for its many biases and for prejudicing the outcome of the negotiations for developing countries. In its statement to the NGMA, the NAMA 11 stated that "the hallmark of a good text is one that has the potential to build genuine engagement, negotiation and ultimately consensus...[but that]...from the point of view of the majority of developing countries in the WTO, this text does not meet this objective."

In formulating its reaction to the draft text, the NAMA 11 worked intensively to build alliances with the ACP, SVE, African and LDC Groups. In their individual statements in the NGMA and TNC, the ACP, SVES, African and LDC Groups (the G90) criticized the text in the strongest terms. The ACP considered the chair's text only as "an input into the process." The LDCs stated that the Chair's draft could be seen only as a "baseline" for engaging. In the TNC meeting the Ambassador of Jamaica read a statement on behalf of the G90 and the NAMA 11 calling for a genuine bottom-up process in September to correct the substantial imbalances in the Chair's draft text.⁴³ Paraphrasing the Chair's assertions in his draft text, the NAMA 11 statement in the TNC emphasized that: "Today a clear majority of the members of the WTO have spoken with one voice and with absolute clarity. They have stated that they are the makers of their own history. They have demanded the right to participate in the process of decision making that will determine the course of their economic development and the lives of their people."⁴⁴

The Welfare and Agency Roles of the G20 and NAMA 11

The G20 was successful once again in influencing the first draft text of the chair in the agriculture negotiations towards their own proposals. The G20 was thus successful in advancing the welfarist interest of its members. The agency role of the G20 will be tested when the many issues that impact on smaller

⁴¹ See WTO doc, Job(07)/131 31, "Statement by South Africa to the NGMA on the Chairs Text of 17th July 2007." See also Communication from the Southern African Customs Union (SACU) compromising Botswana, Lesotho, Namibia, South Africa and Swaziland" TN/MA/W/92, 29 October 2007.

⁴² WTO doc, Job (07)/132 31, "Statement of the NAMA 11 to the NGMA-25 July 2007."

⁴³ WTO doc, " Joint Statement of the G90 and NAMA 11 – 26 July 2007"

⁴⁴ WTO doc, " Statement of the NAMA 11 to the TNC – 26th July 2007"

developing countries, such as preference erosion, tropical products and tariff escalation, are addressed in the next draft. Indeed, the capacity of the G20 to negotiate complex issues among its own diverse membership will be tested when the issues of Special Products and the proposed Special Safeguard Mechanism are elaborated in the revised Chair's text.

The united front presented by the G90 and NAMA 11 in their joint statement on the Chair's draft text was a great achievement for the NAMA 11 and developing countries in the WTO. It was a testimony to the progress made in forging deeper alliances between developing countries, notwithstanding their different levels of development and interests in the WTO. This was achieved against very strong pressure emanating from the EU and the US to prevent such unity and strong criticism of the NAMA draft text. The united response of the G90 and the NAMA 11 had succeeded in pushing back the efforts of the EU and the US to foist an unfair text on developing countries. However, here too the need to maintain a common approach on the issues of the coefficient and flexibilities will continue to test the unity of the NAMA 11. Its agency role in defending the interests of developing countries will depend on its capacity to build convergence on issues such as preference erosion, where the interests of its own members for greater market access in developed markets will have to be compromised.

Conclusion: Assessing the Role of the G20 and NAMA Coalitions

At the launch of the WTO Doha Development Round in 2001, developing countries succeeded in negotiating a mandate that held out the promise of delivering a development outcome. They did this through a high level of participation in the negotiations. Since then developing countries have formed powerful coalitions in the G20, NAMA 11, G33, LDC, SVEs, African Group and ACP Groups. They have stuck together notwithstanding their divergent interests, as was observed at the WTO Ministerial Meeting in Hong Kong in December 2005, the G-110 Ministerial Meeting in Geneva in June 2006 and the G20 Ministerial Meeting, held in Rio de Janeiro, in September 2006, and again at the end of July 2007 against an unfair NAMA text.

The current impasse in the WTO is a reflection of the strength of developing countries, not their indifference. Today, developing countries are a force to reckon with: they can negotiate, they are technically competent and they are organized. Whilst there have been – and are – many threats of an unfair deal being imposed on developing countries, this threat should not cause them to renounce their legitimate claims to a fair and balanced outcome of the Doha Round. They have insisted on the fulfillment of the promise that the Doha Round will be a development round.

Thus the major developing country coalitions in the WTO – the G20 and the NAMA 11 – are effectively defending their welfare interests or “their own well being”. The G20 – itself a complex set of countries including Brazil, Egypt, India, Paraguay and Tanzania – has negotiated and put forward a set of proposals on almost every issue in the agriculture negotiations. The G20 has thus become the centre of gravity in the Doha negotiations. Both the European Union and the United States now acknowledge (the latter more reluctantly) that they have to move towards the G20 to achieve a final deal in the DDA. Since its formation at the Hong Kong Ministerial meeting, the NAMA 11 has also presented a raft of proposals on each of the issues in the NAMA negotiations, after intense negotiations amongst its members. There is no doubt that the NAMA 11 has become the main interlocutor with the EU and the US in the NAMA negotiations, and has been able to use its collective leverage to advance the welfare interests of its members.

Developing countries are taking responsibility and providing leadership in the Doha Round. The G20 and the NAMA 11 have begun to play an increasingly significant agency role in the WTO. The larger developing countries have taken on board their responsibility towards the poorer members, especially the LDCs. In Hong Kong, those “developing countries in a position to do so” pledged to provide Duty Free Quota Free Market Access (DFQFMA) to all LDCs. This was a historic breakthrough. What was less visible was the growing understanding among the developing countries on the plight of the ‘small, weak and vulnerable countries’. These countries, which remain an undefined category, have been urging WTO members to recognise their special situation, and that WTO rules and market access ambitions need to be mindful of their different development needs and capabilities. The G20 has recognised the concerns of

these developing countries and the NAMA 11 has agreed that they should be treated differently and provided with greater flexibilities.

South-South trade is an important part of global trade today and an important aspiration of developing countries, especially in the area of agriculture, where developing country markets now constitute more than 50 percent of world trade. Thus the issue of Special Products (SP) and the Special Safeguard Mechanism (SSM) are of greater interest and concern to the members of the G33 and half the membership of the G20 than to the US. It will most certainly be resolved within the G20. It will be resolved in much the same way as the G20 agreed on a formula for market access for developed and developing countries within the G20 – i.e. with a great deal of internal negotiation, through a moderation of the mercantilist market access interests of the more competitive countries and with solidarity with the poor and vulnerable agricultural producers.

There are still some difficult issues among developing countries that will need more work as the negotiation advances. Aware of this, the G20 has pledged to address the issues of preference erosion, tropical products, and tariff escalation, in a fair and balanced manner, both amongst its own members and between its members and that of other smaller developing country groups. The NAMA 11 has agreed to address the issue of preference erosion by moderating its own market access interests in developed country markets and providing developed countries longer phase-down periods for a limited number of tariff lines.

Developing Countries in the G20 and the NAMA 11 have thus gone beyond a mere welfare role in the WTO. They have begun to play a broader agency role. In the absence of leadership by the EU and the US, the G20 has played a leadership role in re-engaging and re-igniting the negotiations in the post-Cancun period and again in the period after the suspension of the Doha round in July 2006. The G20 and the NAMA 11 have succeeded in building convergence amongst their own diverse members and have forged deeper relationships and mutual trust with other developing country groupings representing the least developed and small and vulnerable countries. In advancing this process they themselves have been undergoing a process of learning on how to build fair trading arrangements with more balanced rules that will create the opportunities for development for all developing countries. In the words of the Foreign Trade Minister of Brazil, Celso Amorim, they have been learning how to “combine development with social justice”. This is a sound platform to build a more legitimate and sustainable rules based trading system in the interests of all, developing and developed countries.



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