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**Developing Country Coalitions in the WTO Doha Round:
The NAMA 11**

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Abstract

This paper undertakes a schematic overview of the activities of the NAMA 11 coalition of developing countries that was formed at the 6th WTO Ministerial Conference, held in Hong Kong, China, in December 2005. The paper draws on the theory of coalition building developed by Amrita Narlikar. The paper evaluates the evolution of the NAMA 11 in terms of the factors suggested by Amrita Narlikar for successful coalition building. In the evaluation of the NAMA 11, the paper argues that the NAMA 11 has satisfied the essential requirements proposed by Narlikar for successful coalition building. In its evaluation of the NAMA 11 the paper observes that the NAMA 11 displayed the characteristics of a successful coalition by exhibiting the following characteristics: it consulted its members at each stage of the process and took account of the interests of all its members in formulating proposals and responding to the various chair's texts; it was able to formulate a negotiating position that addressed the specific situation of each of its members and; it displayed a willingness to engage and negotiate at every stage of the process. It concludes by arguing that the group still has to learn the lessons from the WTO July 2008 ministerial collapse to prevent 'defections.'

1. Introduction

The NAMA 11 group of developing countries was formed at the 6th WTO Ministerial Conference, held in Hong Kong, China, from 13 to 18 December 2005.¹ In the period since then, NAMA 11 has become a significant group in the Doha Round negotiations on industrial tariffs, playing a role similar to that played by the G20 in the Doha Round agriculture negotiations. Other developing country groups, including the G33 group of developing countries;² the least-developed countries (LDCs); the Small and Vulnerable Economies (SVEs); the African, Caribbean and Pacific countries (ACP); and the Africa Group, have also played an increasingly assertive role in the World Trade Organization (WTO) Doha Round.³ Coalitions hence provide a rational response to the problem of unequal bargaining power in the WTO.

In a recent contribution to the theory of bargaining coalitions in the WTO, Amrita Narlikar⁴ distinguishes between two types of coalitions in the WTO, namely issue-based alliances (formed around concerns about a particular issue) and bloc-type coalitions (based on shared ideas on multiple concerns). She considers two possible hypotheses for the creation of coalitions: the ‘defection hypothesis’ and the ‘collective gains hypothesis’. Under the defection hypothesis, the rationale for coalition formation is based on narrow individual interests where countries join a coalition to first establish their power and then to be bought off by the outside party in the form of side payments (‘the prisoners dilemma’). In this scenario, each member of the coalition is fearful of being isolated in the end game where it could be the only member left adhering to the collective position after the collapse of the coalition—thus generating the ‘sucker’s payoff’.

¹ The NAMA 11 Group of developing countries was formed in the period shortly before the Hong Kong Ministerial Conference in December 2005. Its members are: Argentina, Brazil, Egypt, India, Indonesia, South Africa, Philippines, Namibia, Tunisia and Venezuela

² The G33 was formed on the eve of the 5th WTO Cancun Ministerial Conference, held in September 2003, with some 23 members representing countries with predominantly small farms, and keen to protect their rural development, livelihood and food security needs. The G33 group had grown to about 45 members by July 2007.

³ The LDC Group, the ACP and the Africa Group have jointly become known as the G90 Group of developing countries.

⁴ Narlikar 2009.

Narlikar asserts three arguments against the ‘defection hypothesis’ as an explanation for the primary logic of coalition formation. She argues that; countries will not cooperate if they all are aware that each is driven by this logic; the outside party too will not take the coalition seriously; and repeated defections by members will in any event result in a lack of credibility for the coalition. Instead, she argues that a more convincing rationale for coalition formation is captured by the concept of the ‘stag hunt’, where parties recognize that their collective interests are more likely to be achieved if they cooperate.

Narlikar provides at least three recommendations to strengthen developing country coalitions and to reduce the temptation of members to defect (for example, to enter into a self-interested side agreement): a) effective agenda setting that addresses the concerns of all the members; b) larger members making side-payments to smaller members, such as via increased market access; and c) the building of a large coalition with large and smaller members that increases the reliability of such a coalition achieving its goals and providing reassurance to its own members. Narlikar also suggests that a negotiating posture that displays a willingness to negotiate—rather than a negotiating posture of simply standing firm, (‘strict distributive strategy’)—is more likely to generate concessions from the other side and prevent defections and collapse of the coalition.⁵ Set against this theoretical understanding of bargaining coalitions, this chapter will explore the evolution of the NAMA 11 developing country group and evaluate its role in the WTO’s Doha Round of negotiations.

The paper will argue that the NAMA 11 displayed the characteristics of a successful coalition. First, it consulted its members at each stage of the process and took account of the interests of all its members in formulating proposals and responding to the various chairs’ texts. Second, the NAMA 11 was able to formulate a negotiating position that addressed the specific situations of each of its members with the larger members supporting the interests and concerns of the smaller members. Third, the NAMA 11 succeeded in building a broad-based alliance of developing countries that enabled it to maintain the unity of the group and advance the interests of the group within the WTO. In addition, by drafting detailed proposals on each of the issues and responding to the chair’s draft texts, the NAMA 11 displayed a willingness to engage and negotiate at every stage of the process.

The chapter proceeds in ten steps. The next section will set out the background of the Doha Round’s Non-Agricultural Market Access (NAMA) negotiations and evaluate the evolution of the NAMA text through to the July 2004 Framework Agreement (Annex B).

⁵ For a discussion of a “strict distributive strategy” see Narlikar and Odell 2006.

Section 3 will evaluate the development of the NAMA text and the outcome on NAMA at the Hong Kong Ministerial Conference in 2005, with reference to the birth and role of the NAMA 11 group of developing countries. Section 4 will evaluate the role of the NAMA 11 during the process leading up to and including the suspension of the Doha Round in July 2006. Section 5 will discuss the collapse of the G4 Potsdam Ministerial meeting and the chair's first draft NAMA text in 2007. Sections 6, 7 and 8 then evaluate the various revisions to the NAMA text and discuss the role and response of the NAMA 11 to the continued imbalances in these texts. Section 9 evaluates the July 2008 "Lamy Package", particularly its NAMA provisions. Section 10 evaluates the role of NAMA 11 in the context of the hypothesis advanced by Narlikar (above) on the rationale for bargaining coalitions. Finally, in the concluding section we discuss some attempts made in 2009 and 2010 to conclude the Doha round.

2. THE JULY 2004 FRAMEWORK AGREEMENT (ANNEX B)

In the area of industrial products or non-agricultural market access, the Doha mandate agreed to 'reduce or as appropriate eliminate tariffs...in particular of export interest to developing countries'. The WTO Doha mandate set the deadline for modalities for NAMA at the end of May 2003, after the modalities on agriculture that were to be set by the end of March 2004. Thus the chair of the NAMA negotiating group prior to Cancún, Ambassador Girard, began work on developing those 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',⁶—known as the Girard Proposal. 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 sector elimination, 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 both developed and developing countries, the Girard formula succeeded in providing a basis for the negotiations on modalities for NAMA. The failure to reach agreement on agricultural modalities at the end of May 2003 and the EU-US Joint Text on agriculture on 13 August 2003 forced the WTO to lower its target from full

⁶ WTO 2003a.

‘modalities’ and instead to produce a ‘Framework Agreement’ for the Cancún Ministerial Meeting.

Annex B of the Cancún Text, ‘Framework for Establishing Modalities in Market Access for Non-Agricultural Products’,⁷ was criticized by developing countries for being biased in favour of developed countries. They argued further that it did not adhere to the principle of ‘less than full reciprocity’ stipulated for by the Doha mandate. In particular, the Cancún Ministerial Text was criticized by developing countries for calling for a ‘non-linear formula’⁸ and mandatory sectoral tariff reductions.⁹ The Cancún Text was not adopted owing to these criticisms and this led to the collapse of the Cancún Conference.

In the period up to the July 2004 Ministerial Meeting, some of the major delegations began to display flexibility in their approach to the NAMA framework. The United States Trade Representative (USTR), Bob Zoellick, 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 2004 General Council meeting, developed countries¹⁰ began to insist that the Cancún Text—or the Derbez Text as it is referred to—should not be changed at all in spite of the criticisms and objections of developing countries.

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 2004 Package on NAMA called for additional negotiations on the elements of the Derbez text. These issues included the treatment of unbound tariffs, flexibilities for developing countries, participation in sectoral negotiations, and the issue of preference erosion.¹¹

2.1. AN EVALUATION OF THE JULY 2004 FRAMEWORK AGREEMENT NAMA TEXT (ANNEX B)

⁷ WTO 2003b.

⁸ See WTO 2003b, 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.

⁹ Some developing countries were willing to entertain the possibility of sectoral negotiations but only if these were 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.

¹⁰ Developed Countries created an informal negotiating group to support the Derbez text called ‘Friends of Ambition.’

¹¹ WTO 2004a; Paragraph 1 of Annex B.

Developing countries succeeded in ensuring that the Derbez text, which was perceived to be biased in favour of developed countries, was not imposed on them. The July 2004 Framework Agreement on NAMA made it possible for the elements of the Derbez text to be further negotiated and allowed for the possibility that the outcome of the negotiations on modalities would be more balanced and take into account the interests of developing countries. The debate on the substance of the 'Framework Agreement' was 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. THE HONG KONG MINISTERIAL CONFERENCE AND THE FORMATION OF THE NAMA 11

In the period leading up to the Hong Kong Ministerial Conference, a group of developing countries began to work together closely on NAMA and produced a critique of the EU and other developed countries' emerging approach to the Doha Round negotiations.¹² In a paper submitted to the WTO Committee on Trade and Development, this group of countries argued that developing countries 'cannot be expected to pay for the much-needed reforms in the agriculture sectors of developed countries (referred to above), by overly ambitious requests of them in industrial tariffs that do not take into account the realities of their levels of economic development and their adjustment needs'.¹³ These developing countries called for the 'development content of the round to be reclaimed' and began to unite around their common concerns in the NAMA negotiations before the Hong Kong Ministerial Meeting. The aggressive approach taken by the EU to the formula for developing countries in NAMA in its submission of 28 October 2005 led these countries to unite on the need to defend the flexibilities that developing countries had succeeded in obtaining in the July 2004 Framework Agreement.¹⁴

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.¹⁵ Due to their

¹² WTO 2005b.

¹³ WTO 2005c.

¹⁴ WTO 2005a.

¹⁵ See 'Letter to the Chairman of the 6th Ministerial Conference, Hong Kong, 13th December 2005' in

increased bargaining power in the WTO, the NAMA 11 was able to achieve three important victories. First, the coalition successfully resisted the attempts by developed countries to force a premature agreement on modalities in NAMA ahead of any significant agreement on the main issues in agriculture. Second, these developing countries were able to confirm that the principle of 'less than full reciprocity' would be adhered to when making reduction commitments and appropriate flexibilities would be provided to them in order to preserve their domestic policy space. Third, the group was also able to 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.¹⁶

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) ensured that the developing countries were able to defend themselves from undertaking more onerous obligations in NAMA. Most important, the NAMA 11 was to become an important platform to build stronger links with other developing countries in the WTO and to build alliances between the larger and smaller developing country groupings in the WTO. In Hong Kong, Ministers from the NAMA 11 joined with the G20 in building a common platform with the G33 and the G90 group of developing countries that sought to unite the developing countries and build solidarity on issues of concern to each of these groups, forming the G110.

Even at this early stage of the formation of the NAMA 11, the group ensured that it was able to: a) consult intensively with its members and formulate joint positions to the WTO Green Room in Hong Kong; b) address the specific concerns of its members with the larger members, such as India and China, supporting the specific needs for additional flexibility called for by South Africa, Argentina, and Venezuela; and c) by building solidarity with a larger group of members in the G110, the NAMA 11 was able to gain the support of the majority of developing countries for its negotiating positions.

4. THE SUSPENSION OF THE DOHA ROUND IN JULY 2006

This section will briefly set out the process of the negotiations up to the end of July 2006, when the Doha Round negotiations were suspended.

South African Mission 2007.

¹⁶ WTO 2005d, Paragraph 24.

Ministers in Hong Kong had agreed that the deadline for modalities on agriculture and NAMA should be 30 April 2006. Ministers of Trade, who met on the margins of the Davos World Economic Forum on 28 January 2006, went further and proposed a deadline for the conclusion of the Round at the end of 2006.¹⁷ The period before April 2006 was dominated by the meetings of the G6 (US, EU, Japan, India, Brazil and Australia) culminating in a Ministerial meeting of the G6 in London on 10 and 11 March 2006. The meeting focused on all the main issues of the Doha Development Agenda (DDA), including agriculture, NAMA, services, rules and development issues.

The US and the EU were reported to have questioned the need for the paragraph 8 flexibilities¹⁸ already provided for developing countries in the July 2004 Framework Agreement. In the discussion on NAMA, the EU, US, Japan and Australia argued that they required ‘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 Brazil and India. However, both the EU and the US proposals on cuts in their domestic support were not going to make real or effective cuts in their subsidy levels.

In the WTO, Pascal Lamy called off the proposed Ministerial meeting at the end of April as there was insufficient progress in the negotiations. He called for the negotiations to be text-based, with an intensive bottom-up process, to continue in Geneva, and to be coordinated by the chairs of the agriculture and NAMA negotiating groups. The NAMA chair presented his text on 26 June 2006.¹⁹ The G6 met on several occasions at the ministerial level at the end of June in Geneva and focused on the three sides of the ‘Lamy triangle’—agricultural market access, agricultural domestic support, and NAMA.

On the NAMA side of the ‘triangle,’ Ministers Celso Amorim of Brazil and Kamal Nath of India reported to the NAMA 11 Ministerial Meeting held on 29 June 2006 that, in the G6 Ministerial meeting, the EU, US, Japan and Australia insisted that the NAMA 11 countries undertake tariff cuts, adopting a simple Swiss formula with a coefficient of 15. Ministers Amorim and Nath rejected this proposal as it was unreasonable, too onerous, and against the Doha

¹⁷ Financial Times 2006.

¹⁸ 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 smaller percentage than the average cut specified in the agreed formula.

¹⁹ WTO 2006a.

mandate.²⁰ The extent to which tariffs get reduced under the formula depends on the coefficient used. For a given tariff rate (say 10 percent), the formula results in a lower final reduced tariff rate if a higher coefficient is used. Conversely, if a lower coefficient is used, the resulting reduced rate would be relatively higher. (See Glossary for the formula). The NAMA 11 Ministerial Meeting adopted a communiqué²¹ that called for the use of a higher coefficient by developing countries and suggested that there should be a 25 percent difference between the coefficient used by developing and developed countries. It emphasized that its approach was based on the two main principles:²² less than full reciprocity, and the need for a comparable level of ambition in agriculture and NAMA negotiations as agreed in paragraph 24 of the Hong Kong Ministerial Declaration.

Again, the G6 Ministerial Meeting, chaired by Lamy, held on 23 and 24 July 2006 in Geneva, failed to make progress on the substance of the negotiations. Lamy convened an urgent Trade Negotiating Council (TNC) meeting on 24 July 2006 to report back to the membership. Lamy stated that the only course at that point was to suspend the negotiations across the Round, providing everybody time out to review positions. The deadlines for the other issues in the Round would now need to be revised.

4.1. EVALUATION OF THE SUSPENSION OF THE DOHA ROUND

The EU and the US remained united, calling upon the larger developing countries to open their markets in NAMA. Then-EU Trade Commissioner, 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 developing countries. The USTR supported this view.

Although Brazil and India did not formally represent the NAMA 11, they defended and argued the positions of the G20 and NAMA 11 in the G6 and reported back repeatedly to the G20 and the NAMA 11 Ambassadors and Ministers. The strength of their negotiating position was based on the strong technical back-up and united position of these groups. In the period

²⁰ WTO Reporter 2006.

²¹ WTO 2006b.

²² 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).

leading up to the suspension of the negotiations, they were able to effectively defend and advance the interests of the NAMA 11 and other developing country groups.

Thus, the NAMA 11 maintained a posture of engagement and a willingness to negotiate. At this stage of the negotiations, the NAMA 11 was also to meet the three criteria set by Narlikar above for successful coalitions. First, the NAMA 11 met regularly with Brazil and India at a technical level and at the ambassadorial level, formulating its approach to the negotiations that was to inform the positions taken by Brazil and India in their engagements with the G6. Second, Brazil and India were also to express the specific concerns of NAMA 11 members, such as that of Argentina, South Africa, and Venezuela that required additional flexibilities. Third, the NAMA 11 held several meetings with other developing country groups, such as the LDCs, SVEs, Africa Group and the ACP to report back on the G6 meetings and to build and maintain solidarity on issues of concern to these groups.

5. THE NAMA CHAIR'S FIRST DRAFT TEXT – 17 JULY 2007

In March 2007, a process of bilateral discussions between the G4 and the G6 began at senior official and ministerial levels, culminating in a final negotiating meeting on modalities in Potsdam, Germany. The G4 ministerial meeting in Potsdam from 19 to 23 June 2007 collapsed on the third day of the scheduled four-to-five-day meeting. Amorim explained that after the first day's discussions, it became clear that the EU and the US could not move significantly from their October 2005 proposals. 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.

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 EU and the US were offering on agriculture, they were not willing to accept a formula cut greater than Swiss 30. The day after the collapse of the Potsdam meeting, Lamy called on the chairs to continue with the drafting process. The chairs began to draft after consultations with members and produced draft texts on agriculture²³ and NAMA²⁴ on 17 July 2007.

²³ WTO 2007b.

²⁴ WTO 2007a.

5. 1. THE NAMA 11 RESPONSE TO THE FIRST DRAFT NAMA TEXT

The NAMA text provided a range in the coefficients of 19 to 23 for developing countries and 8 to 9 for developed countries. As the average rates of tariffs of developing countries are high compared with those of developed countries, even with the use of these higher coefficients, the formula would result in a reduction of between 57 and 62 percent in their bound rates of tariffs. At the same time, the percentage average reductions in tariffs that the developed countries would be making would be between 31 and 33 percent. On the flexibilities for developing countries, the text opened the brackets of paragraph 8. For countries that did not want to use paragraph 8 flexibilities, such as Mexico, the text included a flexibility that provided for a reduced percentage cut (of b plus 3).

The NAMA 11 made statements both in the NGMA (NAMA negotiating group)²⁵ and the Trade Negotiations Committee (TNC)²⁶ that criticized the chair's draft text for being imbalanced in prescribing a level of ambition for developing countries that was disproportionate to that provided for developed countries and for jumping ahead of the agriculture negotiations by proposing narrow ranges (Swiss coefficients of 19 to 23 for developing countries), while the agriculture text provided relatively wide room for further negotiations. 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.

As a result of this pressure and in an attempt to prevent the imbalanced chair's text from being imposed on developing countries, the NAMA 11 submitted a 'members' text' (on 9 October 2007 at the WTO General Council Meeting) that included the elements and principles that should guide a NAMA text. In response to this, the US stated that 'the proposal could signal the end of the Doha Round', and the EU stated that 'alternative texts (to the current chairs text) are not needed'.²⁷

5. 2. REACTIONS OF OTHER DEVELOPING COUNTRY GROUPS

The African Group, the ACP, and the SVEs were critical of the NAMA text, since the text also increased pressure on them. For the paragraph 6 countries (those that had low binding levels in

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

²⁶ WTO 2007d; See Statement of the NAMA 11 to the TNC. See also in South African Mission 2007.

²⁷ Financial Times 2007.

the Uruguay Round) the text had increased the binding level to 90 percent from their preferred 70 percent. The text also required the SVEs to bind their tariffs at 14, 18 or 22 percent, increasing the burden of reduction that they envisaged.

The NAMA 11 made a joint statement together with the Africa Group, the ACP and the LDC group (the G90) on the chair's first draft NAMA text at the TNC on 26 July 2007.²⁸ The joint statement called for 'the substantial imbalances' in the chair's text to be addressed. These imbalances were stated to include the attempt to 'presuppose the outcome in NAMA while the negotiating positions of developed countries were still preserved in agriculture'; 'making developing countries pay first in NAMA and pay more than developed countries in agriculture'; 'turning the principle of less than full reciprocity on its head' by requiring developing countries to make greater commitments than developed members; and 'undermining the agreement reached in Hong Kong to ensure that the level of ambition in NAMA was comparable to agriculture'.

5.3. ASSESSMENT OF THE FIRST DRAFT TEXT

The chair's first NAMA text appeared to largely reflect and accommodate the views and interests of the EU and the US, leading to great dissatisfaction among developing countries. Moreover, the text appeared to increase the pressure on developing countries to open their markets further than developed countries were willing to open their markets in agriculture. The sustained pressure on developing countries by the EU and the US to accept the NAMA chair's efforts to continuously raise the level of ambition was immense. However, developing countries continued to resist this pressure through their coalitions. Thus, at each stage of the process the NAMA chair produced imbalanced texts against the interests of the majority of developing countries. The agriculture chair on the other hand included the views of the majority of WTO Members, developed and developing countries, in a 'bottom-up' process.

The EU and the US built a high level of coordination that enabled them to maintain a united front in pressuring the major developing countries to raise the level of ambition in market access in the Doha Round's NAMA, services, and environment negotiations.²⁹ On agriculture,

²⁸ See "Joint Statement of the G90 and the NAMA 11", 26 July 2007 in South African Mission 2007.

²⁹ The EU and the US still retained some significant differences in their negotiating positions on other issues such as the Rules issues, (AD and Fishing Subsidies), and Geographic Indicators.

the EU and the US appeared to maintain the basic compromise they reached in Cancun,³⁰ in the EU/US Joint Text to accommodate each others' concerns in agriculture. So the EU did not apply significant pressure on the US to reduce its trade distorting support, and the US did not apply much pressure on the EU to open its markets further. Thus, the joint target of the EU and US to satisfy their market access needs became the major developing countries.

This joint effort of the EU and the US produced enormous pressure on developing countries to accept the NAMA text. However, developing countries built strong alliances to resist this pressure and assert their own demands and interests. The Joint Statement of the NAMA 11 and the G90 at the end of July 2007 TNC meeting was unexpected by the developed countries. 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.³¹ 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 the very strong pressure emanating from the EU and the US to prevent such unity and strong criticism of the NAMA draft text.

Again at this stage of the negotiating process, the NAMA 11 adopted a posture of willingness to negotiate and satisfied the three criteria of successful coalitions set by Narlikar above. First, the NAMA 11 worked intensively at both the technical and ambassadorial levels to assess and evaluate the chair's first draft text and to formulate its responses. Second, the NAMA 11 addressed the specific situations of its Members, such as Argentina, South Africa, and Venezuela in its proposals made to the chair, and Brazil and India supported these concerns in the negotiating group. Third, the NAMA 11 was able to build a formidable alliance of developing countries to strengthen its negotiating position and build confidence among its members.

6. THE NAMA CHAIR'S FIRST REVISED DRAFT TEXT – 8 FEBRUARY 2008

The First Revised texts on agriculture (TN/AG/W/4/Rev.1) and NAMA were tabled on 8 February 2008.

6.1. THE NAMA 11 RESPONSE TO THE CHAIR'S FIRST REVISED DRAFT TEXT

³⁰ Ismail 2004.

³¹ See "Joint Statement of the G90 and the NAMA 11", 26 July 2007 in South African Mission 2007.

For the NAMA 11 there were two critical issues: the formula and the flexibilities. The range in the formula (19-23) that the chair had inserted in his first draft text remained the same. In his first draft text, the chair had removed the brackets from the paragraph 8 flexibilities (permitting exclusion of tariff lines from formula cuts, or making on them less than formula cut or keeping them unbound) that were provided in the July 2004 Framework Agreement on NAMA. In his first revised text he decided to reintroduce the brackets, but remove the numbers altogether, for the percentage of tariffs that should take less than formula cuts and for the volume of trade. In a press conference subsequent to the release of the first revised text, the NAMA chair stated that he dropped the numbers in paragraph 8 owing to pressure from members and that new paragraph 8 proposals would be negotiated. He cited the proposal of some members for a sliding scale under which developing countries seeking more flexibilities could have either a lower coefficient or conversely limited flexibilities with a higher coefficient.³²

The NAMA 11 criticized the chair's first revised text for once again ignoring the proposals of the NAMA 11 on both the range of coefficients and the flexibilities.³³ The NAMA 11 group of developing countries pointed out that the chair in his first draft text acknowledged that the range of coefficients was his own view. In the second draft text, however, he still insisted on retaining his range. The NAMA 11 argued that its views must be incorporated in the chair's modalities text so that ministers could determine whether they met the mandates of less than full reciprocity and paragraph 24 of the Hong Kong Ministerial Declaration.³⁴

6.2. REACTIONS OF OTHER DEVELOPING COUNTRY GROUPS

The ACP reacted to the NAMA text in the NGMA by stating that although most ACP states would not be applying the formula, "the impact of the formula will be felt by all ACP states." In this regard, the statement also raised their concerns about the possible adverse impact of sectoral negotiations on the further erosion of preferences.³⁵

6.3. ASSESSMENT OF THE FIRST REVISED DRAFT TEXT

³² Washington Trade Daily 2008.

³³ See "Statement of the NAMA 11 to the TNC- 26 July 2007", in South African Mission 2007.

³⁴ See "NAMA 11 Talking Points for the NGMA, 20 February 2008", in South African Mission 2007.

³⁵ WTO 2008b.

The major developing countries began to complain of two significant imbalances between the agriculture and NAMA texts. The first related to the substantive difference in the level of ambition, and the second related to the differences in the approach of the chairs to the drafting process. Brazil's senior official, Roberto Azevedo, made a statement that compared the difference in the level of ambition between agriculture and NAMA. He argued that developed countries were calling for a large amount of policy space in agriculture and refusing to consider the same in NAMA for developing countries. He called for a balance between ambition and feasibility.³⁶

The NAMA 11 continued to display a posture of willingness to negotiate and to reflect the three factors for successful coalitions suggested by Narlikar. First, the NAMA 11 coordinated its efforts by formulating joint talking points to guide their members' responses to the first revised draft texts. Second, the group maintained its solidarity with those members that required additional flexibilities, such as Argentina, South Africa, and Venezuela. Third, the group continued to build and maintain its coordination with other developing country groups, such as the ACP, the Africa Group and the LDCs.

7. THE SECOND REVISED TEXT – 22 MAY 2008

The second revised texts on agriculture and NAMA were published on May 2008.

7.1. THE NAMA 11 RESPONSE TO THE SECOND REVISED NAMA TEXT

The NAMA chair's second revised text retained essentially the same set of coefficients (i.e., 7-9) for developed countries (the previous text had 8-9), and for developing countries (a range of 21-23). However, the text introduced a 'sliding scale' concept for developing countries. This provided a 'trade off' for developing countries which could now choose between enhanced tariff reductions and more flexibilities to deviate from the full formula cuts, or less onerous tariff reductions with less flexibilities.

In its statement to the NGMA on 27 May 2008, the NAMA 11 recognized the positive aspects of the second revised text that attempted 'to create an architecture that responds to the various proposals of developing countries'. However, the statement criticized the chair's text for having chosen to once again 'maintain a narrow range of coefficients for developing countries

³⁶ WTO 2008c.

that predetermines the level of ambition in NAMA and ignores the positions of the NAMA 11 on the issue of the range'.³⁷

The NAMA 11 statement also criticized the chair's second revised text for introducing the proposed anti-concentration clause demanded by the EU and US, while these proposals (contained in paragraph 7f) did not enjoy the support of the majority of developing countries. Similarly, the NAMA 11 stated that the 'bracketed paragraph in 7i of the chair's text attempted to draw a link between the formula and the sectorals' while the chair's text later stated that 'participation in sectoral initiatives is on a non-mandatory basis'.

7.2. REACTIONS OF OTHER DEVELOPING COUNTRY GROUPS

The Africa Group in its statement to the NGMA reflected its concern that the NAMA chair's revised text had more brackets than the previous one. The statement raised a number of concerns, including on the ranges of coefficients for developing countries, the binding coverage for paragraph 6 countries, the attempts to link sectorals with the formula, and the need for more adequate treatment of preference erosion.³⁸

7.3. ASSESSMENT OF THE SECOND REVISED TEXT

At this stage of the process, both the EU and the US continued to demand increased market access to the major developing countries. They called for an anti-concentration clause that would limit the flexibilities that were provided to developing countries, and they demanded that the major developing countries participate in negotiations on sectors of interest to them. Although the major developing country groups continued to resist the pressure to accept onerous cuts in their tariffs as demanded by the EU and US, the chair of NAMA continued to bias the texts in favour of the developed countries.

The NAMA chair continued to raise the level of ambition in the NAMA text in the direction of the EU and the US. While he made some improvements to accommodate the need for additional flexibility for developing countries in the text, he included the need for the anti-concentration clause that would limit this flexibility, notwithstanding the general opposition by developing countries to this clause. Similarly, he drew a link between the sectorals and the

³⁷ WTO 2008d.

³⁸ WTO 2008e.

formula as demanded by the EU and the US, even though there was no support for this among developing countries.

At the Organisation for Economic Co-operation and Development (OECD) meeting in Paris on the DDA, held on 5 June 2008, the USTR, Susan Schwab, and the EU Commissioner, Peter Mandelson, called for an ‘anti-concentration clause’ to further restrict developing country flexibilities and a ‘top-up’ in sectoral negotiations.³⁹ This demand was resisted by a number of developing country Ministers who were present at the Paris ministerial meeting, including Celso Amorim, the Foreign Trade Minister of Brazil, and Kamal Nath, the Commerce Minister of India.

Again, the NAMA 11 retained a posture of a willingness to negotiate and displayed the characteristics of a successful coalition proposed by Narlikar. First, the NAMA 11 worked intensively at technical and ambassadorial levels to evaluate and respond to the chair’s text. Second, the NAMA 11 continued to articulate its support for the specific situations of Argentina, South Africa, and Venezuela. Third, the NAMA 11 maintained its solidarity and coordination with the Africa Group, ACP, and LDC groups.

8. THE THIRD REVISED TEXT – 10 JULY 2008

The chairs of agriculture and NAMA released their third revised texts on 10 July 2008.

8.1. THE NAMA 11 RESPONSE TO THE CHAIR’S THIRD REVISED TEXT

The NAMA 11 made a statement on 11 July 2008 to the NAMA negotiating group in which it observed some progress in the attempts of the chair to capture the complexity of the issues in the NAMA modalities architecture. However, the NAMA 11 criticized this third revision for ‘once again’ maintaining ‘a narrow range of coefficients for developing countries that predetermines the level of ambition in NAMA and ignores the stated positions of the NAMA 11 on the issue of the range.’ The NAMA 11 also ‘rejected any attempt to further constrain the already limited flexibilities provided in the modalities text’, with reference to the so-called anti-concentration clause proposed by the EU and the US. The NAMA 11 statement stressed the need for the modalities in NAMA to adhere to the mandate of less than full reciprocity and Paragraph 24 of the Hong Kong Ministerial Declaration, which called for comparability in the level of ambition between agriculture and NAMA.

³⁹ Washington Trade Daily, 2008.

8. 2. ASSESSMENT OF THE THIRD DRAFT TEXT

Ministers of the G20 and the NAMA 11 that met in Geneva in preparation for the ministerial meetings at the end of July 2008 were confronted with a set of highly imbalanced texts. On the one hand, the agriculture text provided significant flexibilities for developed and developing country members to address their sensitivities and development concerns. On the other hand, the NAMA text increased the ambition for developing countries and provided a narrow range of flexibilities to protect developing country development concerns that were further constrained by the anti-concentration clause.⁴⁰

Thus, the NAMA 11 continued to reflect a willingness to negotiate. The NAMA 11 at this stage reflected the three factors for successful coalitions proposed by Narlikar. The NAMA 11 maintained a coordinated approach by consulting its members. It maintained the support for the specific situation of some of its members, such as Argentina, South Africa, and Venezuela. Finally, it continued to build its solidarity with other developing country groups.

9. THE WTO JULY 2008 MINISTERIAL MEETINGS AND THE ‘LAMY PACKAGE’

A large number of WTO Ministers were invited by Pascal Lamy to join the negotiations at the ministerial level at the end of July 2008 in Geneva. After two days of opening statements in the WTO TNC and Green Room, Pascal Lamy constituted the G7 ministerial meetings (US, EU, Japan, Australia, China, India and Brazil), which was to dominate the negotiations until their collapse on 29 July. During the course of the G7 ministerial meetings Pascal Lamy produced a so-called ‘Lamy Package’ that proposed coefficients in the middle of the NAMA chairs ranges on NAMA.⁴¹ Brazil and India were part of the G7, but were unable to consult with the NAMA 11 on the deal making within the G7. The proximate cause of the collapse of the July ministerial meetings was the failure of G7 Ministers to agree on a special safeguard mechanism for developing countries. However, there are three underlying causes for the collapse of the July ministerial meetings.

First, the chair of the NAMA negotiating group played a significant role in biasing the texts against developing countries and creating an imbalance between the agriculture and NAMA

⁴⁰ WTO 2008f.

⁴¹ The Lamy Package adopted the proposed middle ground of the NAMA Chairs 10 July 2008 Draft Text.

texts. The NAMA 11 group of developing countries that represented a significant group of emerging market economies criticized the various draft texts of the NAMA chair that emerged in the period before the July 2008 ministerial meeting for ignoring their views and reflecting the preferences of the chair. This position was enunciated as follows by the South African statement to the TNC on 22 July:

Our experience in the NAMA negotiations over the last two years is that the texts that have emerged at various points have consistently ignored the positions and views we have expressed as the NAMA 11. Furthermore the statement notes that whilst the 'agricultural negotiations have been conducted through a carefully constructed "bottom-up" process through which the positions of all WTO Members are found in the agricultural modalities text, the NAMA modalities text is highly circumscribed and prescriptive'.⁴²

Second, the EU and the US consistently failed to meet the demands of the Doha mandate to substantially reduce agricultural protection in developed countries and increased the pressure on developing countries to open their markets in NAMA. Thus, Minister Davies was to argue that the underlying reason for the collapse of the July Ministerial Meetings was due to 'a more fundamental imbalance between the legitimate claims of developmental reforms to the global trading system and the frankly mercantilist commercial interests of forces benefiting from the existing unbalanced global trading system'.⁴³

The third reason for the collapse of the ministerial meetings is ironically due to the 'medieval process'⁴⁴ that saw the EU and the US sticking to old habits of setting up imbalanced small groups that cut the main deals, without consideration for the smaller players, and the marginalization of their issues in the negotiations. The G7 ministerial meetings called by Director General Pascal Lamy during the July 2008 ministerial meetings failed to achieve the objective of negotiating the breakthrough in the agriculture and NAMA modalities negotiations that he had hoped for. Some agreements reached in the G7 on elements of the modalities—the so-called 'Lamy Package'—did not have the support of all the members of the G7,⁴⁵ and the G7 did not

⁴² WTO 2008g.

⁴³ Davies 2009.

⁴⁴ Pascal Lamy, after the collapse of the WTO Cancun Ministerial meeting in 2003 blamed this on the 'medieval process' of the negotiations.

⁴⁵ See Letter by Kamal Nath, Minister of Commerce of India, to the WTO Director General, Pascal Lamy, dated 24 September 2008 and 17 October 2008.

enjoy the support of the majority of members that felt that their issues were marginalized in the negotiations.

While members of NAMA 11 had met before the July 2008 ministerial meetings to formulate a coherent and united position on NAMA they were unable to meet and consult during the process of the G7 ministerial meetings called by Pascal Lamy. This resulted in a fragmentation of their negotiating positions. Moreover, South Africa, as the coordinator of the NAMA 11, was not invited to the G7 ministerial meetings. Second, the specific situations and demand for additional flexibilities of some NAMA 11 members, such as Argentina, South Africa, and Venezuela, were not discussed in the G7 and hence the opportunity for solidarity within the NAMA 11 was lost. Third, the issues of interest to the smaller developing countries, such as duty-free quota-free treatment for LDCs and preference erosion were also not discussed in the G7. Thus, the opportunity to maintain and strengthen the broader alliance among developing countries was also lost.

10. EVALUATING THE NAMA 11 COALITION

Reflecting on the hypothesis presented by Amrita Narlikar on the rationale for the formation of coalitions, the evaluation of the NAMA 11 in the preceding discussion provides strong evidence that the latter coalition has indeed displayed the characteristics of a ‘stag hunt’—where parties recognize that their collective interests are more likely to be achieved if they cooperate. The NAMA 11 has also displayed the characteristics of other successful coalitions in the WTO. The NAMA 11 has survived and succeeded through: a) a process of internal consultation and ‘agenda setting’ to retain the support and confidence of its members; b) a willingness to recognize the particular concerns of its members (support for the cases of Argentina, South Africa, and Venezuela – country specific flexibilities); and c) providing support for the interests of SVEs and LDCs and building effective alliances with these groups.

Narlikar’s hypothesis for successful coalitions has required that these coalitions display a willingness to negotiate. From its inception, at the Hong Kong Ministerial Conference, the NAMA 11 displayed a willingness to negotiate by engaging with its main interlocutor, the EU and US, and other developed countries, providing proposals to guide the chair’s texts and detailed responses to the texts of the chair. It combined this with steadfastness and an ability to stand firm on its principles and negotiating positions. Consequently, the NAMA 11 has become the main interlocutor with the EU and the US in the NAMA negotiations. The NAMA 11 has

also reflected the other three factors that Narlikar has suggested for successful coalition building. We discuss these in turn.

First, the NAMA 11, coordinated by South Africa, has consistently engaged in intense consultations with its members and has taken a proactive and constructive approach to the NAMA negotiations. Since its formation at the Hong Kong ministerial meeting, the group has presented a raft of technical proposals on each of the issues in the NAMA negotiations, after intense negotiations among its own members. These consultations have taken place at a technical level, ambassadorial level, and at various ministerial meetings.

Second, the NAMA 11 has adopted an approach of maintaining a common stand on principles and concepts while recognizing and supporting the specific concerns and situations of its members. Thus, the group, including its larger members, namely, India and Brazil, continued to support the specific needs of Argentina, South Africa, and Venezuela. Each of these countries required specific flexibilities for different reasons, and the group supported the interests of these members at each stage of the negotiations.

Third, the NAMA 11 has been consistent in addressing the concerns of the smaller developing countries and has been building effective alliances with these members. The NAMA 11 has forged relationships of mutual trust with other developing country groupings representing the LDCs, the Africa Group, the ACP, and SVEs. It has provided leadership and support to other developing country groups and taken on board its responsibility toward the poorer members, especially the LDCs and the SVEs. In Hong Kong, '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. In addition, the NAMA 11 provided recognition and support for the plight of the 'small, weak and vulnerable economies'. These countries, which remain an undefined category, have been urging WTO members to recognize their special situation, and that WTO rules and market access ambitions be mindful of their different development needs and capabilities. The NAMA 11 has recognized the concerns of these developing countries and has agreed that they should be treated differently and provided with greater flexibilities. South Africa is the coordinator of the NAMA 11. As South Africa is also a member of a customs union (SACU) it had to ensure that its positions were well-coordinated with its neighbours. South Africa was also to ensure that it continued to consult and integrate the negotiating positions of the smaller economies (the Africa Group, the SVEs, and the LDCs) that shared similar concerns with its customs union partners. The NAMA 11 thus was able to maintain unity with a wide range of developing countries in the G90 group and reduce the capacity of the developed countries to isolate the NAMA 11 (mainly larger emerging developing economies)

Some lessons can also be drawn by the NAMA 11 from the July 2008 ministerial collapse. The NAMA 11 suffered from the lack of being formally represented in the G7 July 2008 ministerial negotiations. South Africa is the coordinator and was not included in the G7 negotiations and it was not consulted on the 'Lamy Package'. While Brazil was willing to accept the compromise language in the 'Lamy Package', India had some reservations. Other members of the NAMA 11 were not consulted and were faced with a take-it-or-leave-it package. Argentina, South Africa, and Venezuela continued to negotiate for a better deal. The group will need to reflect on how to maintain its solidarity in spite of the different negotiating positions and interests of its members. An early compromise by a major member of a coalition could be perceived to be a 'defection' to obtain a 'side payment', thus weakening the coalition and leading to its collapse. This puts pressure on the remaining members of the coalition to ensure that they do not end up with what Narlikar refers to as a 'sucker's pay-off'.

11. CONCLUSION

This paper has provided a schematic overview of the formation and evolution of the NAMA 11 leading up to its formation at the Hong Kong Ministerial Conference and at each stage of the negotiating process until the July 2008 ministerial collapse. The paper has evaluated the evolution of the NAMA 11 in terms of the factors suggested by Narlikar for successful coalition building. In the evaluation of the NAMA 11, the paper has argued that the NAMA 11 has satisfied the essential requirements proposed by Narlikar for successful coalition building, although the group still has to learn the lessons from the July 2008 collapse to prevent 'defections'. Finally, the paper concludes with a brief outline of the efforts that have been made in 2009 and 2010 after the collapse of the July 2008 ministerial meetings to 're-energize' and conclude the Doha Round.

Efforts to resume the Doha Round in 2009 and 2010

By December 2008, WTO members had failed to agree on the 'Pascal Package' and the US was to reject the attempt made by the chairs of agriculture and NAMA to capture the convergences reached in July 2008. From early 2009 the new US administration went further and argued that these texts were not acceptable to its constituencies as it did not provide them with sufficient market access to the larger developing country emerging markets. The US called for intense bilateral meetings with the larger developing countries, such as China, India and Brazil, in an

attempt to pressure these countries to provide US exporters with increased market access in agriculture, NAMA, and services than provided for by the July and December 2008 texts.

A large number of developing countries, led by China, Brazil, India, and South Africa have opposed the attempts of the US in 2009 and 2010 to undermine the multilateral process by entering into bilateral engagements to increase market access for US exporters beyond the agreements reached in the current modalities, which are already skewed against developing countries.⁴⁶ Developing countries have argued that the agriculture and NAMA modalities captured in the chair's draft texts (July and December 2008) are imbalanced. The level of ambition in agriculture, they argued, was reduced for developing countries and the level of ambition in NAMA has increased considerably with deep cuts to be made in developing country tariffs through the Swiss formula and a further reduction of the flexibilities granted to developing countries through the anti-concentration clause.⁴⁷ Thus, the current attempts by the US to obtain increased market access in the major developing country markets, through bilateral negotiations and sectoral negotiations, is unfair and contrary to the Doha mandate that has prioritized the exports of interest to developing countries.

Against this background, the key question for developing countries is not when, but how, the round should be concluded. The need for the US administration to embrace the development dimensions of the round and strive to conclude it on its development mandate will be crucial. Developing countries will need to engage the new US administration on the overall coherence of its multilateral engagement and support for development. If the US administration is unable to withstand the pressures from its protectionist lobbies that are campaigning for greater market access in an attempt to delay and frustrate the conclusion of the round or to temper the ambitions of the major export lobbies that aim to make huge gains in market access at the expense of some of the major developing countries in the WTO, developing countries will need to strengthen their alliances, such as the NAMA 11, the G20, G33, the LDC group, the ACP, and the Africa Group and defend themselves from the efforts to secure an imbalanced outcome in the Doha Round.

⁴⁶ See Washington Trade Daily 2009b; Reuters 2009; See also www.ibsa-trilateral.org/

⁴⁷ Washington Trade Daily 2009a.

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