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THE WTO'S JULY 2008 MINI-MINISTERIAL: AGRICULTURE, NAMA, PROCESS ISSUES AND THE ROAD AHEAD

SYNOPSIS

This paper outlines the main events which took place during the WTO's July mini-Ministerial. It goes on to provide a discussion of the key issues that were important in that meeting – agriculture, cotton, the non-agriculture market access negotiations, as well as systemic process concerns. It concludes with some thoughts on the challenges confronting developing countries – high food prices, livelihoods and climate change, and the implications these challenges pose for the WTO.

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EXECUTIVE SUMMARY

1. The WTO's mini-Ministerial to complete agriculture and non-agriculture market access (NAMA) modalities in July 2008 collapsed unceremoniously after nine days. This note begins by describing the political context surrounding that meeting, and goes on to provide a day-by-day chronology of the events of the nine days.

2. This is followed by a discussion of the issues that were central to that meeting. In agriculture, the key issues include the Special Products (SP) and the Special Safeguard Mechanism (SSM) and cotton. In the non-agriculture market access (NAMA) negotiations, the key issues were the formula/coefficient, anti-concentration and sectorals. The paper highlights what the 'Friday package', proposed by the Director General Pascal Lamy suggested in agriculture and NAMA, and in particular, what the concerns were of developing countries in the area of the SSM.

3. The problematic process during the mini-Ministerial is also dealt with. The paper highlights both immediate process concerns and longer term systemic process issues confronting the institution.

4. The final section notes the supposed 'political divide' within the institution, which became very apparent during the mini-Ministerial, and which some believe, may be the underlying cause of Doha's current collapse. This 'political divide' refers to the expectation by a large number of developing countries that the multilateral trade system should, if need be, depart from trade liberalization objectives in order to take livelihood concerns into account, versus others that are completely opposed. Our thesis is that in fact there is an emerging consensus that the multilateral trade system should take national objectives into account. What was unacceptable to the US was that whilst it allowed itself to deviate from 'trade liberalisation', it did not agree that the emerging developing countries could do likewise.

5. The paper concludes by laying down the challenges confronting the global community, and in particular, the developing world – high food prices, livelihood concerns and climate change. If these are to be taken seriously, our production, consumption and trade patterns are likely to have to change, and so too, the multilateral trade system. Its present core business – trade liberalization – will have to be critically reviewed.

THE WTO'S MINI-MINISTERIAL OF JULY 2008: AGRICULTURE, NAMA, PROCESS ISSUES AND THE ROAD AHEAD

I. INTRODUCTION

1. The WTO mini-Ministerial of July 2008 took place between 21 July and 29 July. The intention was to finalise the Doha Round's agriculture and non-agriculture market access (NAMA) modalities so that Members' schedules of liberalization commitments could be prepared before the end of 2008, negotiations on the other issues could also be drawn to a close, and the Round, begun in 2001, could be completed by end 2008.

2. Instead, the meeting ended in a collapse. There was no agreement on the issue of the Special Safeguard Mechanism (SSM). However, this was only one of many issues where talks were nowhere close to agreement. In fact, many speculate and with good reason, that underlying the SSM was the silent issue of cotton and the inability of the US to move on cotton subsidies.

3. This analytical note first lays out the political context surrounding the mini-Ministerial. It then takes a day-by-day look at the events of the mini-Ministerial in order to give readers a flavor of the mood at this meeting. Following which, the issues of agriculture; the non-agriculture market access (NAMA) negotiations; cotton; and the process issues will be discussed.

4. The paper concludes with a section on the fundamental divide that became quite stark as the mini-Ministerial progressed – the view by certain developed countries to push liberalization, and developing countries' conviction that a completely free market is unable to deliver on livelihoods. Governments must therefore carefully craft trade policy if livelihood issues are to be adequately addressed.

5. The collapse of talks in July is not a negative development. The package on the tabled had failed to deliver on development for the poorest countries, focusing much more on market access that would have benefited only the most competitive and those with a monopoly over intellectual property. In a rapidly changing global order, with very challenging problems confronting nation states such as climate change, high food prices and water stress, it would be prudent for developing countries to pause and reflect on why the current trade system has not delivered for the poor, but has instead led to inequitable growth patterns, including increasing extreme poverty in Africa. What type of trade policies should countries put in place to develop their agricultural and industrial sectors in a broad-based manner? How can the multilateral trade system support these efforts? These questions should be at the center of our current trade talks.

II. THE POLITICAL CONTEXT OF THE JULY 2008 MINI-MINISTERIAL

6. The US election in November 2008 was the reason why the WTO's Director General Pascal Lamy and key WTO Members were so eager to push through a mini-Ministerial, with all the risks involved. The calculation was that a US headed for a deep recession is likely to increase its protectionist tendencies. If a Democratic President were to take over the Administration, the Doha talks could enter the deep freeze for some two to three years. (This could be the case even for a Republican President). By 2011, it is not even clear if the Doha mandate of 2001 would be seen as relevant.

7. However, the failure of the mini-Ministerial is also likely to be due to the fact that it took place so close to the US elections in November 2008. There was little appetite in the US to agree to any real cuts in farm supports. This was already illustrated in the US Farm Bill that was passed in May 2008 which authorized spending of up to $307 billion over five years from 1 October 2008.[1] In particular, it would have been unthinkable for the Congress to have adopted cuts in cotton subsidies. Cotton states are largely Republican states.

8. India also faces elections by April or May 2009. A deal liberalizing the agricultural sector would not be welcomed by the rural electorate. As it stands, India also has little to gain from the Round, except in the area of services, where they have a big interest in Mode 4. The country is defensive in both the agriculture and NAMA negotiations.

9. By the time the mini-Ministerial took place, it was already clear that whilst Brazil was pushing hard for a conclusion, India was much more skeptical about the development benefits of the Round. Argentina and South Africa also remained deeply and genuinely unhappy over the NAMA text and its impact on their prospects for industrialization.

10. It should also be noted that on the part of the majority of small developing countries, the benefits of Doha were not immediately clear. Whilst most developing countries supported its conclusion, there were no clear gains to reap. The US was not making any 'substantial reductions' in agricultural domestic supports. In fact, the poorest developing countries - particularly sub-Saharan Africa - is faced with the prospect of overall losses in both agriculture and industrial goods liberalisation.[2]

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[1] A significant part of this was support to producers. The exact amount would depend on the rise and fall of world prices –larger supports in times of low prices and lower supports when prices are high.

[2] The World Bank concluded in 2005 that the gains from the Round were expected only for a few large developing countries. "Bangladesh and many African countries benefiting from preferences are likely to face losses" (Anderson and Martin 2005 "Agricultural Trade Reform and the Doha Development Agenda", World Bank). Sandra Polaski's simulation of the outcome of the Doha Round also runs "counter to the commonly held view about the Doha Round, namely that agricultural liberalization benefits developing countries and therefore is key to achieving the development goals of the Round. In fact, agriculture liberalization benefits only a relatively small subset of developing countries." Polaski

11. In addition, an issue that was not addressed overtly, but which has caused unease for some of the biggest emerging economies is the fact that the US Trade Representative (USTR) did not have the mandate to seal a deal. Since the expiration of the Bush Administration's Trade Promotion Authority (TPA) in June 2007, any deal made by the USTR could be picked apart before the US Congress. This was not a palatable scenario for US' major negotiating partners. If the major developing countries had already given their maximum concessions in order to seal a Doha deal, they could be asked to liberalise yet further, simply to secure from the US, what they had already been promised i.e. they could be asked to 'pay twice'.

III. A DAY-BY-DAY CHRONOLOGY

It is beyond the scope of this paper to cover the myriad issues that were discussed and meetings that took place. However, the following chronology provides an insight into the overall negotiations, and in particular, how the negotiations on agriculture had been organized.

A. Before the Mini-Ministerial

12. Friday 25 July. Kamal Nath came to Geneva to participate in the G33 and the G20 meetings before he left again for Delhi. He would only return to Geneva on Wednesday, the third day of the mini-Ministerial.

13. Sunday 20 July. Most developing country coalitions met at Ministerial level – the G33, NAMA 11 and the G20. They issued communiqués communicating their areas of concern vis-à-vis the negotiating texts.

B. Monday 21 July – Day 1

14. The format planned for each day of the mini-Ministerial was an informal Trade Negotiations Committee (TNC) meeting each morning at 10am (open to all WTO delegations), followed by Green Room meetings in the afternoon for the selected 30 plus countries.

15. Not a lot happened on the first day. The first Green Room meeting was convened in the late afternoon (about 4pm) and Ministers mainly made statements. It ended at about 8.30pm. Reportedly, Director General, Pascal Lamy said that he would issue a text by Friday. The Services Signaling conference was to be held on Thursday. (The new agriculture and NAMA text would therefore be prepared on Thursday). Delegations were really concerned that they would

also concludes that the majority of African countries will lose out on the liberalization of manufactured goods (Polaski S, 2006 "Winners and Losers: Impact of the Doha Round", Carnegie Endowment for International Peace).

not have sufficient time to digest the text before adoption at the TNC meeting which had been planned for Saturday 26th July.

C. Tuesday 22 July – Day 2

16. A 'Walk in the Woods' meeting on Special Products (SPs) and the Special Safeguard Mechanism (SSM) was convened by the Agriculture Committee Chair Crawford Falconer early on Tuesday. It was a small group of countries invited by invitation only. It was reported by some developing country delegates that the US slammed the G33 proposals on SP and SSM. As concerns the SSM, the idea of tariffs going beyond the Uruguay Round bound rate was unacceptable to the US.

17. The US also unveiled their 15 billion 'offer' at a press conference on Tuesday. This was reiterated in the Green Room meeting that afternoon. The meeting ran from 4pm to about 10pm. Again, the main focus was on the SP and SSM in agriculture, and the key areas in the NAMA negotiations - coefficients, sectorals and anti-concentration.

18. The mood in the Green Room was fairly tense. There were reports that the exchange between Brazil's Foreign Minister Celso Amorin and USTR Susan Schwab were less than friendly, and similarly between Celso Amorin and the European Trade Commissioner Peter Mandelson.

19. Pascal Lamy reportedly concluded the Green Room meeting saying that he would cancel the Green Room meeting scheduled for the following day, and that he would instead hold a number of small group consultations. The Green Room, he said, would reconvene on Thursday.

20. G33 members were wondering why so much pressure was being put on developing countries' defensive interests – SP/SSM, anti concentration, sectorals, whilst there was no real debate on the issue of agricultural subsidies (US' overall trade distorting supports offer) and cotton.

21. Already at this early stage in the negotiations, the corridor speculation was that the US was avoiding the issue of cotton subsidies as they were not intending to reduce these supports, and that they wanted to engineer a breakdown on the SSM instead.

D. Wednesday 23 July – Day 3

22. India's Trade Minister Kamal Nath returns to Geneva victorious after his party secures a confidence vote.

23. Instead of having several small groups negotiating, as the Director General Pascal Lamy was reported to have suggested the evening before, only one main

negotiating group was convened – the G7 - composed of US, EC, Australia, Japan, India, Brazil and China.

24. India requested Lamy to also include Indonesia, as coordinator of the G33, in the small group negotiations. But this was not accommodated.

25. The G7 met late into the night on Wednesday. According to some news reports, Lamy was determining what the 7 countries' red lines were and attempting to put some numbers on paper that could be acceptable to the G7 and then presented to the Green Room.

26. Outside the G7 meeting, there was significant amount of disaffection amongst Ministers who had been invited to the Green Room, but who were now excluded from the main negotiating forum. The frustration was clearly expressed at the TNC the following morning.

E. Thursday 24 July – Day 4

27. Switzerland was the first country to take the floor at the TNC. They complained bitterly about the G7 process. The African countries also took objection. There were no Africans in the G7. The situation seemed like a déjà vu of the Seattle Ministerial, where the negotiations took place in a Green Room and the Ministerial collapsed when the Caribbean and African countries excluded from entering the Green Room issued statements saying that they refused to be part of a consensus if they were are not included in the negotiations.[3] At 1pm, Lamy called a meeting of all the coordinators of the developing country groupings to placate them. He also promised that there would be a Green Room meeting that evening.

28. No progress was made in the G7 process. In the Green Room that evening, Canada demanded that Pascal Lamy produces a road map by the next 24 hours (i.e. midnight Friday). The Canadian Minister also asked each of the G7 ministers in turn if they thought a package could be had – did each of them seriously think that this deal could be done?

29. The DG reportedly said that he thought there might only be a 50-50 chance of a package coming together. He said it was difficult at that point for him to come up with a text given the divergent positions.

30. The signaling conference was moved to Saturday, to the disappointment of India. India had wanted the signaling conference to be in the middle of the mini

[3] Process issues were not the only cause of the collapse during the 1999 Seattle Ministerial. Attempts to insert labour standards into the WTO, as well as the intention of launching a new round which encompassed the New Issues (investment, competition and transparency in government procurement) also contributed to grinding talks to a halt. However, the process issue – angry ministers milling around, locked out of the Green Room – was definitely a major contributory factor.

Ministerial, not at the end, so that they could adjust their positions on the other issues based on any offers they might be given at the Signaling Conference.

31. Both inside and outside the Green Room, the sense in the WTO on Thursday evening was that the gaps were too wide and talks were headed towards a collapse.

F. Friday 25 July – Day 5

32. At the TNC on Friday morning, Lamy told members that progress remained 'painfully slow' and that if no additional progress was made in the next 24 hours, the deal would not happen.

33. The Kenyan Minister, Mr. Uhuru Kenyatta, Deputy Prime Minister and Minister of Trade gave a press conference outlining both the Africa Group's concerns about the G7 process, as well as the concerns they had regarding the development deficits in the Round.

34. The G7 met at noon. Lamy brought his one page of numbers in agriculture and NAMA to the G7 (See Annex 1). This was intended to be the 'G7' package but was later baptized the 'Friday package' given the lack of consensus within the G7.

35. India's Kamal Nath was very unhappy. He related to some negotiators the following day that he had not agreed to the numbers in the 'Friday package'. In fact, he did not want to be party to that meeting. It was clear that India was feeling isolated. Brazil reportedly said that whilst they did not like the numbers, they could live with them. Nath apparently wanted to leave the meeting. He said it was not in protest, but that he did not want to be party to a conversation over numbers he did not agree with.

36. At this time, media reports were also emerging that US President George Bush had called India's Prime Minister Manmohan Singh, asking for India's cooperation.[4]

37. At 5pm, WTO spokesperson Keith Rockwell made a brief announcement that there were 'encouraging signs' at the G7 meeting. There was, he said, 'a spirit of cooperation and it is time to bring the information to the larger group'.

38. The two versions provided of the mood within the G7 in response to the numbers Lamy had presented did not match.

39. At 5.30 pm, Lamy called several of the Green Room Ministers who were not in the G7 to his office and gave them a copy of his 'text'. The Green Room then convened at about 6pm to talk about these numbers.

[4] The Economic Times 2008 "Bush Calls Manmohan on WTO Talk", 24 July.

40. It was reported that the US made it very clear in the Green Room that this was a package deal. If any element was unraveled, everything would unravel and things would be back at square one, and the multilateral trade system would be put at risk.

41. Ministers said that they would get their experts to look at the numbers and come back to negotiate on Sunday.

G. Saturday 26 July – Day 6

42. The G33 met that morning. There was a lot of concern over the numbers in the text on both SP and SSM, but particularly on the SSM. The leaders of the G33 wanted to hear from the group if there would be support to push for better numbers. Many spoke up for much better triggers and remedies than what was provided for in the 'Friday package'.

43. In the media, India was painted as standing in the way and being obstructionist. Indonesia was apparently asked to play a bridging role between Nath and the others. The mood was completely changed from that of Thursday when most were anticipating a collapse. Instead, there was the sense that with the political pressures that were being put on countries and the efforts within the G7, a deal could eventually be pushed through. Many outside the Green Room and the G7 were uneasy about how issues of importance to them would be treated. As one Ambassador said, "We are living through historic times".

44. The Africa Group met to coordinate their position on the 'Friday package' and to work out the positions they would convey to their Ministers.

45. This was the day of the Signaling Conference. When Ministers exited the Signaling Conference that evening and came down to the ground level lobby of the WTO building, Peter Mandelson and the Australian minister Simon Crean immediately made press statements saying how positive the Signaling Conference had been.

46. Kamal Nath did not take the same exit. When the press finally spotted him leaving the building, he was questioned about the meeting. He spoke of it positively, but noted that promises made by the US Trade Representative (USTR) to increase the quota on H1B visas (for professionals) to the US had to be negotiated with the Congress since immigration issues are not within the purview of the USTR.

H. Sunday 27 July – Day 7

47. More internal meetings of developing country groupings at the expert level took place. That morning, the coordinators of the different developing country

groupings that were concerned about the Lamy 'Friday package' on SP and SSM came together to discuss these concerns. This led to a joint statement of the G33, African Group, ACP (African, Caribbean and Pacific countries) and SVEs (Small and Vulnerable Economies) on Special Products and the Special Safeguard Mechanism.

48. The dynamics of the negotiations immediately changed. Unlike what had been portrayed, it was now evident that India was not alone. Over a hundred countries had registered similar concerns about the SP and SSM issue.

49. This joint position paper was made available at the Green Room meeting that evening. Kamal Nath also spoke to the press when he came to the WTO to attend the Green Room meeting.

I. Monday 28 July – Day 8

50. At the TNC meeting, the US openly slammed India and China for their supposed intransigence. 'Unless these two members immediately reverse course to become problem solvers rather than obstacles to the round, all of us will leave Geneva empty-handed'.[5] US also said that these two countries were putting the Round into the 'gravest jeopardy'. The key issue US was opposing was on the insistence of these countries that the SSM should allow for developing countries to raise their agricultural tariffs above the Uruguay Round bound rate.

51. The Chinese retorted at the TNC by taking the floor and pointing out the extent to which China was willing to make a contribution to the Round – by cutting about 30% into the their applied tariff rates for industrial products. China compared this with US' offer to 'lower' their trade distorting agricultural supports to the level of US$14.5 billion even though this was about 100% above their applied/ actual levels of support of US$7-8 billion.[6]

52. 'If they cover all their sensitivities for themselves and keep on making threats at developing countries, I think we are going nowhere', the Chinese Ambassador said in the TNC. [7]

53. The press weighed in on the blamegame: "U.S. slams China, India for putting Doha round into 'gravest jeopardy'" was the headline in the *International Herald Tribune*. "US: China, India threaten Doha round of WTO talks", said the *Associated Press*. "India blocking WTO talks - diplomatic sources" was the headline in *Forbes*. And "China throws up barrier to Doha agreement" was the headline in the British daily, the *Guardian*.

[5] Asia News.It 2008 "India and China Accused of Blocking Global Trade Agreement", 29 July, http://www.asianews.it/index.php?l=en&art=12877&geo=46&size=A
[6] Permanent Mission of China to the WTO 2008 "Statement by H.E.Ambassador Sun Zhenyu, Permanent Representative of China to the WTO at the Informal Trade Negotiations Committee Meeting", 28 July. http://www.tradeobservatory.org/library.cfm?refid=103440
[7] Permanent Mission of China 2008, ibid.

54. New revised draft modalities texts were expected to be issued by Director General Pascal Lamy late on Monday. These texts never appeared as the SSM issue could not be resolved and a large number of other issues were therefore never even discussed or agreed upon. The G7 met from the afternoon of Monday until 2.30am.

55. In that G7 meeting, Lamy proposed a completely different SSM – without triggers and limits. Instead, 'the level and duration of the measure shall be proportionate to the harm in question, and shall not exceed what is necessary to facilitate adjustment. The duration of the measure shall not exceed the calendar year' (see later section for more details).

56. India apparently accepted this Lamy proposal as a possible basis of negotiations. However, USTR Susan Schwab did not. Other formulations were also suggested by the EC, but these were rejected by the US.

57. According to the WTO spokesman Keith Rockwell at about midnight, the G7 had remained engaged in discussions for more than 12 hours. 'The situation is very tense, things are finely balanced and the outcome is by no means certain. The issue for the past 12 hours has very largely been the SSM'.[8] He added that 'there have been a variety of proposals, suggestions, formulas that have been thrashed out by senior officials, ministers, ambassadors, working to try and find a way forward on the issue'.[9]

58. When leaving the WTO that night, EU Agriculture Commissioner Mariann Fischer Boel told reporters, 'It's been an emotional roller-coaster today but we will be back tomorrow with strong commitments to continue the negotiations'. USTR Schwab said 'We are still working'. [10]

J. Tuesday 29 July – Day 9

59. G7 senior officials met at 9am, and G7 ministers met at noon. The plan was to find agreement, to convene a Green Room by 2 or 3pm and to have a formal TNC to seal a deal by the evening. The invited Ministers to the Mini-Ministerial, tired of waiting around with nothing to do, were already leaving one by one, with more leaving on Wednesday. It was becoming impossible to continue negotiations without producing results.

60. By late afternoon, it was clear to the G7 that they had to call off any possible package. A final Green Room was convened to break this to the other Ministers. One Minister who was there described it as a 'funeral atmosphere'. Some

[8] Agence France Presse 2008 "Trade Talks Hit 'Very Tense' Stage: WTO Spokesman", 29 July.
[9] Agence France Presse, 2008 ibid.
[10] Reuters 2008 "WTO Talks Limp into 9th Day, Still in Stalemate", 29 July.

ministers, such as Brazil's Celso Amorin was still urging for a last try that evening, and for negotiations to continue for one extra day.

61. A TNC was convened at 7pm where Lamy broke the news to the other members. The floor was not open for statements. The TNC was to resume the following day to take stock of the situation.

62. Press briefings took place that day and the next day by key ministers. The immediate reaction of Brazil's Celso Amorin and the EC's Peter Mandelson was that the Doha package would be put on hold for some time to come.

IV. THE ISSUES

A. Agriculture and the Special Safeguard Mechanism

1. The Contentious Issues before the Mini-Ministerial

63. Even before the mini-Ministerial, the agricultural issues were very contentious and were far from resolution. Developing countries had defined the development dimension of the on-going Doha Round as including, though not limited to the following:

- A gradual liberalization of a limited number of agricultural tariff lines to protect economically vulnerable producers, through Special Product (SP) provisions. A certain number of products would not have tariff cuts (G33 coalition of 46 countries).

- A mechanism that would help developing countries cope with fluctuations in prices and import surges, through the Special Safeguard Mechanism (SSM) provision (G33 coalition of 46 countries).

- Reducing unfair competition in agricultural markets derived from farm support policies in developed countries, by reducing significantly agricultural subsidies and tightening disciplines (Brazil, India, G20, G33 and the African Group).

- Addressing all the trade-distorting policies affecting the cotton sector in all three pillars of market access, domestic supports and export competition ambitiously, expeditiously and specifically within the agricultural negotiations.

64. Most of these demands were not met with satisfaction in the 10 July 2008 draft modalities (TN/AG/W/4/Rev.3) on agriculture. This was the last

negotiating text the Agriculture Chair, Crawford Falconer had issued just before the WTO's mini-Ministerial.

65. However, in terms of where the negotiations were, it must be said that there was indeed significant progress if compared to June 2006, when talks broke down between the G4 (US, EU, Brazil and India) in Potsdam – at least in the area of agriculture. The New Zealand Ambassador, Crawford Falconer, who was chairing the agriculture negotiations had been holding 'Room F' discussions between 37 delegations. Over the 2 years, a lot of technical work had been done and the mood around the agricultural negotiations had changed quite substantially. The mood was, according to some Geneva-based negotiators, 'much more constructive'.

66. In particular, the views of a majority of countries were to some extent accommodated on the Special Products (SP) issue. Falconer had expanded the Small and Vulnerable Economies (SVE) category and given 46 countries the choice of using a Uruguay Round type formula i.e. cutting their tariffs on an average, instead of cutting tariffs line by line. The countries not given this special provision in the G33 included Indonesia, India, Egypt, Philippines and China.

67. Whilst SPs have been central in the agriculture discussions for several years, the details of the Special Safeguard Mechanism (SSM) had been more fully developed only at a later stage, particularly in the draft texts produced by Crawford Falconer in February 2008. By July 2008, the SSM positions were still far apart. The main areas of strong disagreement were reportedly between developing countries with exporting agricultural interests, and developing countries concerned about their subsistence farmers and the impact of import surges on these farmers. This is not to say that developed countries were unconcerned about the SSM. The US was always strongly opposed to the G33 proposals for an effective SSM.

68. The US' refusal to be make any 'substantial reductions', or in fact any reductions in overall trade distorting supports continued to be a major stumbling block in the negotiations, particularly as the US was repeatedly stating that they wanted *real* market access. That is, the US wanted developing countries' bound tariff cuts to be lowered to below applied tariff levels but were unwilling to do the same in the area of domestic supports. Their applied overall trade distorting domestic supports was in the region of $7-8 billion, yet they were willing to only bind these supports at about $15 -16 billion. This did not provide comfort to developing countries that were looking to the Doha Round to rebalance the imbalanced Uruguay Round agricultural trade rules.

69. In mid-June 2008, India's Commerce and Industry Minister Kamal Nath's challenge to the US to cut their supports by one dollar was widely reported. Said Nath, "My offer to the US is that they should reduce their subsidy by just one dollar and we have a deal… They (US) say: forget about reducing the subsidy

even by a single dollar, we want to have a right to double it in the next 10 years".[11]

70. This trade-distorting subsidy does not even encompass all the subsidies provided by the US. As Nath again points out post July mini-Ministerial, '(US) has (an)other 50 billion dollar subsidies which it arbitrarily calls non-trade distorting'.[12]

2. The Agriculture Negotiations During the Mini-Ministerial

71. Most of the pressure during the mini-Ministerial put on developing countries was on the SP and particularly the SSM issue.

72. As stated in the earlier section, the US offered to 'reduce' their overall trade distorting domestic supports from the 48 billion they are able to provide (but do not currently do so), to 15 billion. This was further reduced to 14.5 billion. However, in return, the US exerted a lot of pressure on developing countries in terms of limiting the flexibilities countries wanted in the area of SPs and SSM.

(a) Special Products

73. In the area of SPs, there were several key issues where there was disagreement between G33 countries and in particular, the US. Firstly, in the Chair's text of 19 May 2008 (TN/AG/W/4/Rev.2), the Chair had provided developing countries with '[a maximum entitlement of 20 per cent and a minimum entitlement of] 8 per cent of tariff lines available for self-designation as Special Products.'

74. Within this entitlement, '[forty percent of those] [no] tariff lines shall be eligible for no cut. For the remaining tariff lines, there shall be an overall average cut of 15 percent achieved with a minimum cut of 12 per cent and a maximum cut of 20 per cent on each tariff line.'

75. This language was further tightened in the 10 July 2008 Chair's text in ways that were not favourable for developing countries: i) the Chair reduced the range of tariff lines covered by SPs to between 10 – 18 per cent; ii) importantly, the Chair deleted the two-tier SP provision that was in the May text and instead

[11] ExpressIndia.com 2008 "US Hypocritical About Farm Subsidies: Nath", 17 June. http://www.expressindia.com/latest-news/US-hypocritical-about-farm-subsidies-Nath/323922/
[12] Business World 2008 "Trade Talks: India Blames US for WTO Impasse", 31 July. http://www.businessworld.in/index.php/In-The-News/India-Blames-US-For-WTO.html Under the current WTO rules, this 50 billion has been housed under the "Green Box". There are no caps on the maximum limit of the Green Box. Several Green Box supports have already been found by the WTO's own Dispute Settlement Body to be trade-distorting. Yet, the Doha negotiations – based on the latest negotiating texts - would not have effectively tackled this major loophole.

introduced a one-tier provision. Up to 6 percent of tariff lines could have no cuts. However, the overall average cut would be 10 – 14 percent.

76. The two-tier provision allows for countries to set aside a percentage of tariff lines for zero cuts. The other tariff lines would be cut by an average. The one-tier provision means that whilst some tariff lines could have zero cuts, overall, all tariff lines designated as SP had to be cut by an average. That is, there would have to be higher cuts for some SP lines in order to compensate for those SPs that would have zero cuts.

77. At the mini-Ministerial, the US in particular was opposed to the idea that there would be SPs which could have zero cuts. They made a very strong case that all tariff lines should be subjected to tariff cuts. They also supported the one-tier provision that was in the Chair's 10 July 2008 text.

Elements of the SP in Lamy's Friday Package

One tier of 12% of tariff lines as special products with an average overall cut of 11%

RAMs (recently acceded members) do an overall average cut of 10% with a total number of 13% of tariff lines

Within that tier 5% of tariff lines take a zero cut.

78. In the Lamy 'Friday package' that was presented by the Director General to the G7 on Friday 25 July, the text says that there would be 'One tier of 12% of tariff lines as special products with an average overall cut of 11%. Within that tier 5% of tariff lines take a zero cut'.

79. It therefore acknowledged the aspiration of many developing countries that there could be 5% of tariffs with zero cuts. However, since this was a 'single tier' rather than a 'two tier' approach, the remaining 7% of SP tariff lines would have to be cut by 19% - a fairly high percentage.

(b) Special Safeguard Mechanism (SSM)

80. Even more controversial were the SSM proposals. Developing countries were opposed to the very tight limits that were put on the SSM triggers and remedies in the 10 July 2008 Chair's text. For the G33 countries, that text had been a deterioration from the already less than satisfactory text of 19 May 2008 which had provided two options – one by SSM proponents, the other by SSM opponents.

81. In the 10 July text, developing countries' ability to implement an additional duty that went beyond the Uruguay Round was very limited. For developing countries (not including Small and Vulnerable Economies or least developed

countries which had different treatment), the following conditions apply if countries' additional tariff breaches their Uruguay Round tariff.

82. '(a) the maximum increase over the pre-Doha tariffs would be no more than 15 ad valorem percentage points or 15 per cent of the current bound tariffs, whichever is the higher; (b) the maximum number of products for which this provision would be invoked would be no more than 2-6 in any given period; and (c) this would not be permissible for two consecutive periods.'

83. Importantly, the 10 July text also noted that countries' additional tariff had to be added to countries' applied tariffs, not their bound tariffs.

84. In contrast, developed countries – particularly the US and EU have been regular users of the Special Safeguard Clause (SSG). The SSG, created in the Uruguay Round, was provided to 16 developed countries and 22 developing countries. In the SSG, there are no limits on the number of times countries could breach their Uruguay Round bound rates. Countries were also not asked to apply the additional tariff to their applied rates. It was understood that an additional tariff provided by the SSG would be applied to the bound rate.

85. What was suggested to developing countries during the mini-Ministerial was far more limiting than the treatment which the developed countries have enjoyed since the Uruguay Round in the SSG. This made it all the more difficult for developing countries to accept what was being proposed. Above all, the concern was that the limits placed on an SSM might render the instrument ineffective in fulfilling its objectives – to protect domestic products when there is an import surge or a sudden price decline.

SSM and SSG Elements in Lamy's 'Friday package'

SSM for above bound rate trigger is 140% of base imports Remedy for above is applicable with a ceiling of 15% of current bound tariff or 15 ad valorem points, whichever is the greater That remedy is not normally applicable if prices are not actually declining Maximum number of tariff lines for above bound 2,5% in any year Developed countries SSG to be eliminated. Starting point maximum 1% of lines. Maximum phase out 7 years. No rate above UR bound during phase out

86. The Lamy SSM package is problematic for developing countries in the following ways:

- The 140% trigger was too high. This means that developing countries' farmers would have to face an import surge of over 40% above normal imports before a higher duty can be invoked. This is likely to be action too late, particularly for the vulnerable subsistence farmers. Research has shown that local economies can already be wiped out when an import surge of between 7-8% takes place.[13]

  In contrast, whilst the SSG had conditions for using certain triggers, the triggers there were 105% (for imports which are 30% of the domestic market); 110% (for imports if they are between 10 – 30% of the domestic market); and 125% (if the imports are less than 10%).[14]

- The text made it necessary for prices to also decline, in addition to volumes increasing before an SSM can be invoked. This is known as the 'cross-check'. Developing countries want two separate triggers – a volume and a price trigger, and that only one or the other is invoked.

  It is not always the case that import prices fall in order to trigger a surge. There have been cases where there financial volatilities have occurred in third countries, and exports which normally enter a certain market get redirected to another market because applied tariffs are low.[15]

- The text limits the number of products that can avail of the SSM which goes beyond the Uruguay Round bound rate to 2.5%. For developing countries which have for example, about 700 tariff lines for agriculture, 2.5% amounts to only about 17 tariff lines. In contrast, the EU had 31% or 539 tariff lines covered under the SSG and all these tariff lines could breach the Uruguay Round bound tariff levels. US had 189 tariff lines covered by the SSG, or 9% of their tariff lines.[16]

There are also no limits on the number of times these countries could invoke the SSG. The EU invoked the SSG for 61 tariff lines in 1996 and the US for 80 tariff lines in 1998.

87. With these conditions, it was small wonder that India as well as a large group of developing countries – The G33, African Group, ACP and SVEs – issued a statement on Sunday 27 July with triggers and remedies that they found more acceptable.

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[13] Sharma B 2005 'Import Surge in Nepal: Case Study on Rice', Study commissioned by ActionAid, December.
[14] South Centre 2008 'Negotiating Brief on Special Safeguard Mechanism (SSM)', 17 July.
[15] For details of such cases, see p. 20 of Kwa A and Shah Q 2008 "Impact of Agro-Import Surges in Developing Countries", ActionAid.
http://www.actionaid.org/docs/cheap%20imports%20and%20protection%20of%20ag.pdf
[16] WTO TN/AG/S/12 2004 'Special Agricultural Safeguard – Note by the Secretariat'.

88. Towards the end of the mini-Ministerial, other SSM proposals had also been suggested. An alternative SSM proposed by Pascal Lamy did not contain triggers or remedies. However, the condition was that there should be 'demonstrable harm to food security, livelihood security and rural development needs' before the instrument can be invoked. This SSM in fact resembles the general safeguard provision, which has been difficult for developing countries to invoke because proving a causal relationship between the surge and the harm caused is not easy, and could be beyond the administrative capacities of developing countries, especially in situations of urgency.

89. Even though India said that it was prepared to use this proposal as the basis for negotiations, the US refused, leading some to again wonder if the US was serious.

Lamy Proposed Special Safeguard Mechanism Requiring 'Demonstrable Harm'

A developing country Member may apply a special safeguard measure to the importation of any agricultural product, when such a product is being imported into its territory in such quantities or price, and under such conditions, so as to cause demonstrable harm to its food security, livelihood security and rural development needs. Natural growth of trade shall not per se constitute a basis for the introduction of such a measure.

The measure shall only be applied to a product being imported on the basis of MFN trade only.

The level and duration of the measure shall be proportionate to the harm in question, and shall not exceed what is necessary to facilitate adjustment. The duration of the measures shall not exceed one calendar year.

A Member applying such a measure shall notify the Committee on Agriculture of the reasons for introducing such a measure immediately, but no later than 20 days of the introduction of the measure.

Upon notification, any Member may request a review of the necessity, level, and duration of the measure by a Permanent Group of Experts to be established by the Committee on Agriculture.

Decisions by the Permanent Group of Experts shall be rendered within 60 days of the request and shall be binding and not subject to appeal.

LDCs and SVEs shall notify the measure within 40 days of its introduction and shall benefit from technical assistance in both notification and review processes.

3. The Special Safeguard Mechanism Negotiations in September

90. An attempt by the G7 in September to bridge positions particularly on the SSM, did not fly. Other SSM proposals were put forward. One that was apparently discussed was that countries would have to map out their growing import volumes (based on their growing population) and only resort to an SSM when imports are over and above "natural" or "normal trade". (The exact proposal is not known as there seems to be no paper trace of what was discussed in the G7). It is not immediately clear what "natural" or "normal trade" refers to.

91. Such a proposal assumes that countries importing a certain part of their food needs will continue to do so, and will in fact rely on the international market to feed their growing population. This runs counter to the logic many countries are attempting to adopt in the light of high food prices – which is that to the extent possible, food should be produced domestically to meet domestic /regional food requirements. This will ease the current burden on many governments' budgets.

92. Also, given that import surges have been such a frequent part of the trade in food in the past twenty years, any extrapolation into the future based on past trade trends would mean accepting the past import surges as part and parcel of "natural" or "normal trade".[17]

93. These import surges often occurred as a result of the following factors which are far from "normal". These include countries' unilateral trade liberalization (due to IMF or World Bank conditions); developed countries' subsidization of certain commodities such as poultry, dairy, rice; tomato paste etc, hence driving export prices down; exchange rate fluctuations or financial crises in even in a third country; or the changing policies of exporting countries, such as countries off-loading their excess stock on the world market.[18]

94. Given these controversies, the SSM hurdle was not bridged in September.

B. Cotton

95. The issue of cotton is very far from any multilateral trade resolution. The cotton proponents had provided the US and EU with a subsidy cutting formula. This has been on the table since March 2006.[19] However, the US never came back with any counter proposal.

[17] An FAO 2005 study on import surges looked at 23 'food groups' in 102 developing countries from 1982 – 2003. Depending on how an import surge is calculated, they found an astounding rate of frequency of surges – 7,132 surges (30% deviation from a 3 year moving average) or 12,167 surges (according to the Special Safeguard Provision (SSG)'s volume trigger). (FAO 2005 'FAO Import Surge Project Working Paper No. 2 May).
[18] For more information, see Kwa A and Shah Q 2008 ibid.
[19] WTO TN/AG/SCC/GEN/4. Proposed modalities for cotton under the mandate of the Hong Kong Ministerial Declaration, 1 March 2006.

96. The cotton countries have been told that the issue of overall trade distorting supports (OTDS) needs to be tackled first. Only then can the cotton issue be dealt with since subsidy cuts in cotton would be over and above the OTDS cut. This was not a situation the cotton countries were at ease with, as their issue would, by implication, be dealt with in a rush.

97. Cotton was not negotiated at the Ministerial in any substantive manner. In the Lamy 'Friday package', there was agreement that the US would 'cut' its overall trade distorting domestic supports (OTDS) by 70%, whilst the EU by 80%. According to a delegate of one of the West African cotton countries, informal consultations between the EU, US, Brazil and the cotton countries chaired by Crawford Falconer during the mini-Ministerial did not yield any results. The EU said that they could not bring their support levels below the 272 million Euros mark and that this was reportedly a 'take it or leave it' position. That is, EU was not willing to take a deeper than the 80% cut in cotton subsidies.

98. For the US, cotton producers were well protected in the May 2008 Farm Bill. Preliminary research by the US-based Forum on Democracy shows that the Step 2 programme which was found to be WTO-illegal, has been replaced by a programme to provide 4 cents/pound of support to domestic cotton users, regardless of the cotton's origin. In addition, producers have been provided with US$5.5 billion by way of credit assurances.[20] No reductions in US cotton subsidies are therefore envisaged.

99. It has also been reported that there was a concerted effort to keep other developing countries out of the cotton negotiations. One African Ambassador said after the mini-Ministerial that whenever the African countries raised the issue of cotton, they were deflected and told that very constructive cotton discussions were taking place in parallel. Similar responses were reportedly also provided to non-African cotton producing countries. There was clearly an attempt to limit the cotton negotiations to the West African Cotton 4 countries, even though it is an issue that concerns a large number of other countries.

100. This lack of genuine attempt to make good on the Doha mandate in the cotton negotiations that has led many to speculate that the US deliberately engineered the collapse of the talks on the SSM issue, where they could put the blame on developing countries. They did not want a repeat of Cancun, where cotton was seen as one of the key culprits leading to the collapse of that Ministerial.

[20] Riggs P 2008 'The 2008 U.S. Farm Bill: Implications for Trade Negotiations and U.S. Compliance with its WTO Commitments', Forum on Democracy, Presentation at the South Centre, 23 September.

C. The Non-Agriculture Market Access (NAMA) Negotiations

1. Contentious Non-Agricultural Market Access Issues Before the mini-Ministerial

101. The key contentious issues in the NAMA negotiations ahead of the mini-Ministerial were the coefficients; anti-concentration clause and sectorals.

(a) Coefficients

102. At the center of the NAMA disagreements was the issue of the 'coefficients' – the number that would be plugged into the tariff cutting Swiss formula determining how deep the tariff cuts would be for developing countries. The US and EU were pushing strongly for a 'coefficient' which would drastically cut developing countries' industrial tariffs, bringing these to a maximum level of between 15 and 26 percent. In effect, developing countries were being asked to cut their industrial tariffs by a higher percentage than developed countries - average cuts of close to 60% for NAMA-11 countries. This is almost double the average cut that would be required from the US, EU and Japan. This contravened the principle of 'less than full reciprocity' - that developing countries would undertake a smaller percentage of the tariff cuts than developed countries.

(b) Anti-Concentration Clause

103. Very late in the negotiations, the issue of anti-concentration also flared up, with the US and EU pushing for countries not to use the flexibilities they were entitled to protect entire sectors. Whilst the principle of flexibilities to protect sensitive industries was already accepted by all, the only condition was that flexibilities were not used to shield from tariff cuts an entire chapter of the Harmonised System (HS) of tariff nomenclature. In other words, reductions to a single tariff line within a chapter could suffice to meet that requirement and enable the protection of the rest of that chapter. Prior to the mini-Ministerial, developed countries sought to limit further the utilization of selective protection through an anti-concentration clause.

104. Developing countries, headed by Argentina, Brazil, China, India, South Africa, Venezuela and others, rejected vehemently limitations of what was seen as an acquired right in the draft modalities to protect a (very) limited number of industries and products. For countries that want to industrialise, protecting certain sectors from imports is critical and an anti-concentration clause could have severely limited the already very circumscribed flexibility that developing countries had.

(c) Sectorals

105. The other issue where there was strong opposition was on sectorals. Still dissatisfied with the very ambitious tariff cutting formula for NAMA, US and EU wanted it to be compulsory for countries to be part of at least 2-3 sectoral

negotiations that would entirely eliminate tariffs (or severely reduce them in the case of developing countries) on a selected number of products in an industrial sector. There was strong opposition to this, particularly because many of the sectors of export interest to developed countries were sectors for which some developing countries were actually seeking some protection (e.g. automobile and parts). There was also resistance as it is clearly stated in the NAMA mandate that participation in sectoral initiatives has been voluntary, not mandatory. Finally, there were also systemic considerations regarding what was seen as an unhealthy link between the tariff reduction formula and participation in sectoral tariff elimination.

2. The NAMA Negotiations during the Mini-Ministerial

106. At the mini-Ministerial, as the then NAMA chair Don Stephenson wrote later in his 12 August 2008 report after the mini-Ministerial (JOB(08)/96), there was 'substantial convergence, but not consensus' on the key elements of the Friday package within the Green Room. He noted that 'this convergence was conditional on agreement on a number of elements in the negotiations on agriculture, and was accepted by many of these Members only "as a package…In addition, some Members' support was conditional upon the outcome of negotiations on other issues – issues which were not part of the "package" and remained to be addressed."

107. He also noted that there were "some Members (that) did not give explicit support to all NAMA elements of the "package". He said that one member had 'explicitly rejected the "package" and, in particular, the numbers in paragraph 5 (the coefficients) and paragraph 7 (the flexibilities for developing countries subject to the formula), arguing that these did not satisfy the mandate for less-than-full-reciprocity and ambition comparable to the outcome in market access in agriculture'. (He is most likely referring to Argentina).

108. Since the bulk of negotiations during the mini-Ministerial was on agriculture, Members never reached the situation where it was revealed whether the numbers in the Friday package would have been accepted or rejected.

109. The following are the NAMA elements of the "Friday Package":

The NAMA Elements in Lamy's Friday Package

NAMA Developed coefficient 8

Developing country coefficient and flexibilities

20 7(a)(i) 14% of tariff lines
16% volume of trade

7(a)(ii) 6.5% of tariff lines
7.5% volume of trade

22 10% /5%
25 0

Anti-concentration clause: 20% of lines, 9% of value.

Sectorals: Insert in para 9 of text: "Recognising the non-mandatory nature of sectoral initiatives, at the time of establishment of modalities, the Members listed in Annex Z have committed to participate in negotiating the terms of at least two sectoral tariff initiatives likely to achieve critical mass. Other Members are encouraged to participate in order to assist in reaching critical mass. Any developing country member participating in final sectoral initiatives will be permitted to increase its coefficient (in such increment as will be determined by no later than two months from the date of establishment of these modalities) commensurate with its level of participation in sectoral initiatives."

110. According to the "package", the coefficients for developing countries were 20, 22 and 25.

111. Countries using a coefficient 20 would have the choice of either

- 7a(i) less than formula cuts for up to 14 percent (the 10 July draft said [12-14])of non-agricultural national tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed 16 percent (the 10 July draft said [12-19]) of the total value of a Member's non-agricultural imports; or

- 7a(ii) keeping tariff lines unbound, or not applying formula cuts for up to 6.5 percent (the 10 July text said [6-7]) of non-agricultural national tariff lines provided that do not exceed 7.5 percent (the 10 July text said [6-9]) of the total value of Members' non-agricultural imports.

112. Countries using a coefficient of 22 could have either

- 7b (i) less than formula cuts for up to 10 percent of NAMA tariff lines, provided that the cuts are no less than half the formula cuts and that these lines do not exceed 10 percent of the total value of Member's non-agricultural imports; *or*

- 7b (ii) keep tariff lines unbound, or not applying formula cuts for up to 5 percent of NAMA tariff lines provided they do not exceed 5 percent of the total value of a Member's non-agricultural imports.

113. Countries applying a coefficient of 25 (paragraph 7c) did not have recourse to any flexibilities.

114. In the area of anti-concentration, the discussion at the mini-Ministerial was that within a HS chapter, countries must at least liberalise 20% of tariff lines within a chapter, corresponding to at least 9% of the value of trade in that chapter. Interestingly, Don Stephenson (JOB(08)/96) did not mention the anti-concentration clause either in his section of issues where there was substantial convergence, nor in his section on issues where there was little or no convergence.

115. The issue of sectorals is very controversial. Even though the "Friday package" does not say that countries must be part of sectorals, it says that Members in Annex Z are committed to participating in at least 2 sectoral initiatives. Annex Z was not been disclosed and if such a list is created, it is likely that many countries, particularly those with big markets will be put under pressure to be part of that list. The aim within a set of sectoral negotiations is to have a 'critical mass' of countries involved in trade in that sector.

116. There is also a linkage between sectorals and the coefficient in the "Friday package" which many developing countries have opposed – participation in a sectoral will allow a country to increase its coefficient.

117. According to Don Stephenson (JOB(08)/96), some Special and Differential Treatment elements were also discussed though no agreed upon in the context of sectorals: These included longer implementation periods; 'zero for x' tariff reductions; exclusion of tariff lines where flexibilities have been applied; and tariff lines which could lead to preference erosion.

V. THE PROCESS

A. Process Concerns Ahead of the Mini-Ministerial

118. The week before the Ministerial, many delegations were questioning the process of having a mini-Ministerial where only about over thirty WTO members were involved in the negotiations, making decisions that should have be taken in a full-fledged Ministerial.

119. It was not clear how the thirty-plus countries were selected, or who determined the composition of the Green Room. Until the Ministers arrived in the Green Room, no one knew the composition of the group. It has been reported that no written invitations were sent.

120. Delegations were worried about how texts would be redrafted, in what arena they would have been introduced and discussed, and whether those excluded from the Green Room would have a say. The excluded countries were worried that they might be presented with a fait accompli at the end. A large number (both those in and out of the Green Room) were concerned about how much time they would be given to consider new texts and whether they would be able to protect their interests under a rushed and highly pressured negotiating process.

B. The Rise and Fall of the G7

121. The deterioration of negotiations from the already problematic Green Room of about 35 Ministers, to the inclusion of only 7 countries in the negotiations was not well received. As some negotiators have noted, small groups have always gathered to discuss issues in the WTO. However, the fact that the Director General, as Chair of the Trade Negotiations Committee presided over this G7 meeting and that the discussions of the G7 were taken directly to the Green Room as a package to be signed off on (if successful), does not make these negotiations transparent nor inclusive.

122. The composition of the G7 group also left much to be desired. It is in effect a modification of the old QUAD (US, EU, Japan and Canada). Today, the major emerging economies had to be accommodated – China, India and Brazil. Developed countries have learnt this lesson since the Cancun Ministerial, when that meeting collapsed, in large part because of India and Brazil's objections to the EU and US text on agriculture. No agreement is to be had if the emerging economic powerhouses are not represented.

123. However, this does not mean that developing countries have therefore been represented. There was, for example, no African country in the G7.

Indonesia, representing the G33 of 46 developing countries in the agriculture negotiations was also not included. Real representation, however, would not have been achieved by, for instance, including another African to the G7 or Indonesia for that matter. Real transparency demands that all countries that want to participate in the decision-making process should be accommodated.

124. Essentially, the G7 countries were the only real decision-makers at the mini-Ministerial. The Green Room meetings were reduced to 'transparency' exercises – to report to the other Members what had transpired in the G7 meeting, and to provide some semblance of inclusion.

125. When the G7 process on the SSM resumed in September, there was again deep unease amongst other developing country negotiators in Geneva. The G33, for instance, did not see the G7 process as the most constructive way of moving forward. They felt strongly that the SSM which the G7 was negotiating was a critical issue for all their countries, and that they should be included in the negotiations. There were concerns that the burden on India and China (the two countries of the G7 which are also in the G33) would be too heavy for these two countries.[21]

C. Systemic Process Concerns

(a) Some Immediate Issues

126. Since the mini-Ministerial, some Members have asked the Chairs of Agriculture and NAMA to 'lock in' the 'progress' that was made during the mini-Ministerial. However, this is difficult. There is no consensus since it really depends on who defines 'progress'. There was no consensus on most if not all issues since all issues discussed were linked and agreement was conditioned upon the resolution of other issues.

127. Nevertheless, both the Agriculture chair, Crawford Falconer and the then NAMA chair Don Stephenson have issued papers highlighting the areas which were negotiated at the mini-Ministerial.

128. Members are now concerned about the status of these papers. Whilst some detected 'emerging convergence' (as Don Stephenson said in his JOB(08)/96 text, others who disagreed with the 'emerging' positions would not like to have these 'emerging positions' be taken as the baseline when talks restart.

129. Argentina's WTO Ambassador Alberto Dumont, for example has said publicly, "I'm not sure that these texts are a basis for moving forward." In agriculture, for example, a number of countries including Argentina objected to Lamy's compromise proposal for the farm talks which would allow the United

[21] These views were reflected in a Washington Trade Daily article of 15 September 2008, "The G33 and the SSM".

States to cap its overall trade-distorting farm subsidies at $14.5 billion a year, a figure they viewed as too high.[22]

130. Dumont also said the report from NAMA chairman Don Stephenson Aug. 12 indicating that Argentina was the only country to reject a "package" on industrial tariffs which emerged from the July 21-29 ministerial was incorrect and that other countries also voiced objections.[23]

(b) Longer Term Issues

131. Until and unless all Members who are interested in being part of the negotiations are allowed to participate just as any other Member can, the system will remain at risk of collapsing (when the majority revolts as happened at the Cancun and Seattle Ministerials) or we may have a sealed Doha Round, whose outcome is subjected to questions of fairness, and where the costs weigh disproportionately on the majority of poorer WTO Members, as in the case of the Uruguay Round.

132. This is because the process of negotiations is closely tied to substance. The process can in fact define the substance. The outcome of a G7 discussion is unlikely to yield the same results as a discussion where any and all Members who are interested in participating are allowed to do so, where all countries' voices are given equal weight, and where countries have sufficient time to engage in national dialogues and debates involving legislators, civil society and the business community.

133. One model of conducting negotiations is already practiced in the UN, where texts are placed on a big screen and Members adjust the text together line-by-line.

134. Such a process involving all players may indeed have ramifications on how fast negotiations can be concluded. However, this is the price of inclusiveness and democracy. If issues of development are to be resolved, the poorest countries must be at the table, and not only in terms of token representation.

135. The political pressures that are brought to bear on countries which are less gung-ho about laissez-faire trade liberalization should also be ceased if we are to forge a system that recognizes the poorest countries' needs as being just as important, if not more so, than the richest.

[22] BNA, Inc. 2008 "Trade Officials Voice Doubts on Push by Lamy to Revive Doha Round Talks", 22 August.
[23] BNA, Inc. Ibid.

VI. POLITICAL 'DIVIDE' *OR* AN EMERGING CONSENSUS AND THE ROAD AHEAD

A. The Real Cause of the July Collapse?

136. It has been said that the breakdown in July illustrated not only unbridgeable technical differences, but also an unbridgeable 'political divide' between developed countries (particularly the US), and a majority of developing countries on their expectations of a multilateral trade system.

137. The Agriculture chair Crawford Falconer, noted on 12 August in JOB(08)/95 that with regards to the SSM,

> "It was not, for any of the participants involved (and those participants include Members that were not in the G7, it should be added), a purely technical breakdown. It was a political divide. In fact, there was progress made on it politically, and technically, during that week. But it was simply not sufficient to bridge a political divide that had been enduring since at least Hong Kong. So illusion number one to guard against is that it can be resolved essentially technically."

138. In fact, the opposite is true, there is an implicit emerging consensus that the trading system must respond to genuine livelihood concerns. What has not been accepted is that whilst the developed countries deviate from trade liberalization, the emerging developing country powers can also do the same.

139. The US refused to give in on the SSM because the idea that countries such as India and China, its big potential agricultural markets, could go backwards in terms of their trade liberalization commitments by allowing tariffs to be raised beyond the Uruguay Round rate, was deemed unacceptable. On the other hand, the idea that trade should take precedence over other objectives such as livelihoods was anathema to India as well as over a hundred countries.

140. However, one should note that despite US' insistence that 'progress' in the multilateral trade system cannot be reversed, they have repeatedly raised their own tariffs beyond their bound rates through their use of the Special Safeguard Provision. It should also be noted that the US, by asking in this Round for an expansion of the Blue Box for agricultural subsidies, is itself moving away from liberalization objectives.

141. US has also insisted on using a different base period for capping its product specific support. Instead of the 1995 – 2000 period, which is the base period for the other Members, the US has been given the latitude to use the base period of 1995 – 2004. This makes a significant difference for the US since their supports had sky rocketed from 2000.

142. According to the US Congressional Research Service (CRS), in comparison to the market returns over the past 10 years, government subsidies in the US

constitute 72% of producers' receipts for rice, 45% for sorghum, 34% for wheat, 30% for barley, 25% for corn, 21% for sunflower seed and 20% for canola. In certain years, support levels are much higher than these averages. The CRS concludes that "it is only with the aid of subsidies that a substantial portion of US production is made economically sustainable".[24]

143. To sum, the US has not shied away from using government support and regulation whenever its employment, political or commercials interests are at risk. Nevertheless, deviation for the developing world has been seen as unacceptable. The same is true for the EU, where it protects its agricultural sector through sensitive products and the so-called Green Box, yet it expects developing countries to drastically reduce tariffs in industrial products.

144. For India, livelihoods concerns were not tradable. According to Kamal Nath after the mini-Ministerial.

> "The US thought it fit to create an impasse on a safeguard mechanism...Not on commercial interest but livelihood," he said, adding "I can negotiate commerce but I cannot negotiate livelihood security".[25]

145. In a similar vein, India's Ambassador, Ujal Singh Bhatia, reiterated recently that agriculture cannot be considered from a narrow commercial or market access perspective.

> "We are not talking about tinkering with one or two numbers here and there. We're talking about a whole philosophical approach to this issue and unless we find a solution which embraces all these concerns... I think we will not find a solution".[26]

146. This supposed "political divide" is a major issue that has weighed down the Doha talks also in other areas in the past – such as the Special Products (SP) negotiations in agriculture, and also in the NAMA negotiations on coefficients and flexibilities.

147. The reality is that neither developed nor developing countries are willing to surrender their trade policy to the free market. This is not a surprise, since for a large number of developing countries, their pursuit of the Bretton Woods conditionalities have not delivered on broad-based and equitable growth. The latest World Bank statistics show that whilst there was 72 percent of the population in sub-Saharan Africa living below $2 a day in 1981, the percentage

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[24] Schnepf R, and Womach J 2006 'Potential Challenges to U.S. Farm Subsidies in the WTO', CRS Report for Congress, 25 October, Congressional Research Service.
[25] Business World 2008 "Trade Talks: India Blames US for WTO Impasse", 31 July. http://www.businessworld.in/index.php/In-The-News/India-Blames-US-For-WTO.html
[26] Lynn J 2008 "WTO Farm Talks Resume, Face Difficult Run", Reuters, 25 September.

was 72.2 in 2005. In numerical terms, the number is almost double – from 286.4 million in 1981 to 551.0 million by 2005.[27]

B. The Road Ahead: Tackling the Challenges of High Food Prices, Rural Livelihoods and Climate Change

148. There are multiple challenges facing developing countries in today's rapidly changing world. These include high food prices, climate change, droughts and water stress, not to mention the array of other issues which continue to be unresolved – hunger, unemployment, and the increasing numbers in extreme poverty as cited above.

149. Our trade policy solutions of the last twenty years leave much to be desired. Liberalisation in the industrial sector did lead to increasing exports by some countries. However, even in these 'successful' cases it did not lead to increasing countries' manufactured value added (MVA). That is, more commonly, deindustrialization and the shrinking of industrial capacity took place. According to economist S.M. Shefaeddin, Jamaica, Ghana, Colombia, Uruguay and Paraguay all experienced high or moderate levels of growth rates of exports, but had negative growth rates of MVA.

> "Notwithstanding two decades of reform, Ghana's growth in MVA added was significantly negative, registering -3.5 percent during the 1990s, implying severe deindustrialization".[28]

150. Similarly, in agriculture, it is now commonly acknowledged that liberalization will only benefit some of the most competitive food producing developing countries. (Timothy Wise of Tufts University provides the evidence in his paper "The Limited Promise of Agricultural Liberalisation").[29] Many developing countries are in fact moving from being net-food exporters in the 1960s and 1970s, to becoming net food importers. From a surplus of $7 billion in the 1960s, developing countries saw a deficit of $11 billion in 2001. If the status quo is maintained, these countries are predicted to have a food import bill of $50 billion by 2030.[30]

151. Many have acknowledged that in the era of higher food prices, the need is for the developing world to once again invest in agricultural production and become self-reliant and as much self-sufficient as possible. Sourcing food from the global market given the volatility in prices is financially untenable.

[27] Chen S and Ravallion M 2008 "The Developing World is Poorer than We Thought, But No Less Successful in the Fight Against Poverty", World Bank, Policy Research Working Paper 4703, August.
[28] Shefaeddin S.M. 2005 "Trade Liberalisation and Economic Reform in Developing Countries: Structural Change of De-Industrialisation?" UNCTAD Discussion Papers No. 179 April.
[29] Wise T 2008 'The Limited Promise of Agricultural Trade Liberalization2, Discussion Paper No. 19, Working Group on Development and Environment in the Americas, July.
[30] FAO 2004 'The State of Agricultural Commodity Markets (SOFA)', Rome.

152. How should this food be produced? The food price issue, rural livelihoods and the climate change debate must be brought together if we are to tackle these simultaneous challenges successfully. Climate change and trade is usually discussed in rather narrowly defined terms. A holistic view, however, will necessitate our reflection on what low green house gas agricultural production, production that is financially sustainable for small-holders, marketing (trade), and consumption entails. What changes from our current practices are necessary, and what will the implications be on agricultural trade?

Agriculture and Climate Change

Each year, agriculture emits 10 to 12 percent of the global total of estimated greenhouse gas (GHG) emissions. Smith, et al (2007) and Bellarby, et al (2008) have proposed mitigation options for GHG emissions that include: improved crop, grazing, livestock and manure management; conservation of organic soils; restoration of degraded lands; and the use of agro-energy crops. These mitigation options challenge farmers and policy-makers to change practices and, inter alia, to improve development of no-till cropping, agro-forestry and integrated crop and animal farming, and to decrease use of external inputs in food and agriculture. Organic agriculture offers techniques which are valuable for consideration in further debates.

Sustainable and organic agriculture offer multiple opportunities to reduce greenhouse gas emissions and counteract global warming. Improving energy efficiency by better managing agricultural and food inputs can make a positive contribution to reducing agricultural greenhouse gas emissions. For example, organic agriculture reduces energy requirements for production systems by 25 to 50 percent compared to conventional chemical-based agriculture. Reducing greenhouse gases through their sequestration in soil has even greater potential to mitigate climate change. Carbon is sequestered through an increase of the beneficial soil organic matter content… Soil improvement is particularly important for agriculture in developing countries where crop inputs such as chemical fertilizers and pesticides are not readily available, their costs are prohibitive, they require equipment, and knowledge for their proper application is not widespread.

In order to reduce trade-offs among food security, climate change and ecosystem degradation, productive and ecologically sustainable agriculture with strongly reduced greenhouse gas emissions is crucial. In that context, organic agriculture represents a multi-targeted and multifunctional strategy; it offers an interesting concept that is being implemented quite successfully by a growing number of pioneer farms and food chains.

Source: FAO 2008 'Low Greenhouse Gas Agriculture: Mitigation and Adaptation Potential of Sustainable Farming Systems', May.

153. If done right, sustainable agricultural production can be a major source of carbon sink and pave the way to a cooler climate.

154. Should biodiversity-rich, sustainable agricultural production systems and the issues of rural livelihoods and water stress be taken seriously, then the landscape of agricultural trade will have to be changed. We are likely to be looking at more small farms producing for the local, national and regional markets rather than the intensive commercial farming for exports.

155. Climate change also challenges our notion that goods and commodities can and should be transported from one corner of the world to another. The global transport sector accounts for 20 – 25 percent of carbon emissions. 80 percent of the world's international trade in goods is facilitated via ocean shipping. The fuel – a mixture of diesel and low-quality oil - has high levels of carbon and sulfur. [31]

156. Whilst the debate is still preliminary, it seems that in order to successfully respond to the challenges in this new era, our production, consumption and trade patterns must change so that we engage much more actively in national and regionally based trade.

157. This will have implications on fundamental aspects of the WTO. Its present core business - trade liberalization - how it is done, the extent of liberalization, and whether or not it should even remain a core element of a multilateral trade system, will most likely have to be critically reviewed.

[31] Bello W 2008 'Derailing Doha Trade Deal Essential to Saving Climate', Foreign Policy in Focus, 28 July.

ANNEX 1 (PASCAL LAMY'S 'FRIDAY PACKAGE')

US OTDS 70 & cut

EU OTDS 80% cut

Cut tariff top ban 70%

Developed country tariff lines above 100% only for sensitive products + 1% allowance with payment as per text.

Developed country number sensitive products 4% + 2% with payment as per text

Developed country expansion TRQs 4% of domestic consumption

One tier of 12% of tariff lines as special products with an average overall cut of 11%

RAMs do an overall average cut of 10% with a total number of 13% of tariff lines

Within that tier 5% of tariff lines take a zero cut

SSM for above bound rate trigger is 140% of base imports

Remedy for above is applicable with a ceiling of 15% of current bound tariff of 15 ad valorem points, whichever is the greater

That remedy is not normally applicable if prices are not actually declining

Maximum number of tariff lines for above bound 2,5% in any year

Developed countries SSG to be eliminated. Starting point maximum 1% of lines. Maximum phase out 7 years. No rate above UR bound rates during phase out

NAMA Developed coefficient 8

Developing country coefficient and flexibilities

20	7(a)(i)	14% of tariff lines
		16% volume of trade
	7(a)(ii)	6.5% of tariff lines
		7.5% volume of trade
22	10% / 5%	
25	0	

Anti-concentration clause: 20% of lines, 9% of value

Sectorals: insert in para 9 of text: "Recognizing the non-mandatory nature of sectoral initiatives, at the times of establishment of modalities, the Members listed in Annex Z have committed to participate in negotiating the terms of at least two sectoral tariff initiatives likely to achieve critical mass. Other Members are encourages to participate in order to assist in reaching critical mass. Any developing country Member participating in final sectoral initiatives will be permitted to increase its coefficient (in such increment as will be determined by no later then two month from the date of establishment of these modalities) commensurate with its level of participation in sectoral initiatives."

READERSHIP SURVEY QUESTIONNAIRE
South Centre Analytical Note

THE WTO'S JULY 2008 MINI-MINISTERIAL: AGRICULTURE, NAMA, PROCESS ISSUES AND THE ROAD AHEAD

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