



## Background Note

# The Doha Conundrum: Roots of Deadlock and Urgent Need for New Thinking – Will the G20 Deliver?

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*At many points in their troubled history, the Doha negotiations have been described as being at a “cross-roads”, a “window of opportunity”, “decision time”, “do or die”, “crunch time”, etc. Such allusions have made no appreciable difference to what has actually transpired – or not transpired - in Geneva. Now the world is faced by economic turmoil, on a scale not seen since the 1930s when the biggest errors in trade policy-making of the 20<sup>th</sup> Century helped turn recession into the Great Depression. A successful conclusion of the negotiations under the Doha Work Programme will not rescue the global economy, at least not in any direct sense. But a public failure entails a risk that may lead populist politicians and protectionists to conclude that the global trading system is broken and that they can and must act accordingly. In other words, the economic downside of failure may be very much more significant than the upside of success.*

*Is there a means of concluding the Doha negotiations quickly and decisively – and broadly positively? Sticking doggedly and stubbornly to the current track seems less and less likely to reap a result. If the G20<sup>1</sup> meeting in London in April 2009 – considered as “maybe the last chance to kick-start” the negotiations – is the best hope of a final opportunity to resolve Doha, maybe those leaders should be looking at some amended conceptual approaches; above all, something simple and immediately relevant.*

*The difficulties experienced in concluding these negotiations are neither technical nor short-term: they reflect inherent flaws and contradictions that have been present since the start. AITIC has followed the fate of the negotiations since their early beginnings, i.e. the preparations for the “Millennium Round”, whose dramatic collapse in Seattle in 1999 foreshadowed the present difficulties. The following essay seeks to look at the roots of the Doha negotiations’ troubles - tracing them back to the unfolding of the WTO “culture” since its early days, following the shedding of its GATT skin - before laying out options, including a tentative modified approach. It does not represent a considered policy position for AITIC or AITIC’s Members. However, since negotiators are facing an unavoidable hiatus in the Geneva process – while a situation of extreme urgency exists in the real world – some debate on how best to move when the time comes seems in order.*

## **I. Turning the Clock Back**

### **A. Stretching the Uruguay Round Built-in Agenda**

1. When did it all begin to go wrong? One response might be: from the point when someone in Brussels decided there was a need for a larger negotiating agenda than that envisaged by the Marrakesh Agreement in 1994. Led by its then Trade Commissioner, Sir Leon Brittan, the EU and a collection of largely OECD

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<sup>1</sup> Regrettably, members of different groups have taken the easy road of assigning a number to their issue-specific or political groupings based on the number of members - although the number of members does not necessarily correspond to the number/name assigned to the group. In this note there are references to two different G20s. The G20, whose summit will take place on 2 April 2009 in London, is an informal forum of finance ministers and central bank governors of 19 countries, the major world economies. The other G20 mentioned in this note, refers to the group of developing-country WTO members that emerged at the Fifth Ministerial Conference of the WTO held in Cancun in September 2003. This G20 is concerned with development issues in the Doha agriculture negotiations.

governments – the US somewhat reluctantly – decided that the WTO should get ambitious quickly. This was despite the negotiating and legislative fatigue that had set in after seven years of GATT Uruguay Round negotiations and at least five years of preparation.

2. The immediate negotiating overhang from the Uruguay Round was mainly focused on services. Financial services had almost sunk the final deal in December 1993 and had to be re-activated in 1996. So too with telecommunications, where domestic reform – in some cases lack of it – in the European Union’s member states had prevented earlier commitments. These two sets of sectoral negotiations eventually proceeded in an essentially supportive policy-making environment. Significant packages of new commitments were reached for telecommunications in February 1997 and for financial services in December 1997. That is not to say they pushed commitments much past the practical *status quo*, but such was the liberalising enthusiasm at the time that merely securing existing investment and regulatory conditions was seen as a worthwhile outcome. The Asian financial crisis that followed may have made some regulatory institutions question why binding GATS undertakings was necessary, but the deal was done.

3. So too was the Information Technology Agreement (ITA), in December 1996, which, while not part of the Uruguay Round built-in agenda, might have been taken as additional evidence that limited negotiations covering elements of the “modern” economy could very well succeed outside of a broad multilateral agenda. Unfortunately, “modern”, for the purposes of trade negotiations, does not include agriculture. Thus, with a large and powerful section of the WTO membership considering the liberalisation of farm trade as the most valuable potential gain from negotiations at the multilateral level (as well as a long-delayed catching-up process with rules and market access for industrial goods), a simple focus on the leading-edge and more easily “doable” sectors of the global economy was never truly an option.

## **B. Even now, some of the post-1994 agenda is unresolved**

4. In any event, the built-in agenda was there. Although principally this meant a restart of negotiations on agriculture and services from the year 2000, there were, in fact, over 30 elements; many among them both important and still unresolved in 2009. Key areas of ongoing work included: the review of the DSU; completion of the GATS with rules on domestic regulation, subsidies, government procurement and a possible safeguard mechanism; harmonisation of rules of origin; and the register of geographical indications for wines under TRIPS. There was no commitment to restart bargaining on industrial products, but few negotiators believed that this central and successful field of GATT activity, where much remained to be achieved, could be omitted if there was to be a serious attempt to secure advances in agricultural trade.

5. In practice, a further raft of in-built Uruguay Round related items that emerged after the 1996 Singapore Ministerial Conference was the so-called “implementation” agenda. This extensive list of demands by developing countries focused largely on making the special and differential treatment (S&D) terms of the Marrakesh Agreement more effective and, in some cases, adding new ones. Many

developing countries had experienced severe difficulties in meeting conditions and deadlines that were contained, principally, in the TRIPS, SPS, TBT, TRIMS and customs valuation agreements. Thus, implementation became the rallying cry of developing countries in the post-Uruguay Round days. Further, they considered that developed countries had failed to live up to expectations in terms of new market access opportunities for the poorer WTO members. In the run-up to the Seattle Ministerial in 1999, the built-in agenda list became a central consideration - in particular for developing countries - in securing the conditions for the launch of a new round.

### **C. Could a new architecture have made a difference?**

6. Thus, in 1996, there was enough to do. The WTO was a year old. It was already inundated with cases under its shiny new dispute settlement system. The institution itself was finding its feet even if the decision-making architecture was hardly unfamiliar: it almost exactly perpetuated the negotiating structures of the Uruguay Round. In retrospect, this may itself have been an error; the need not to complicate the end of negotiations in 1993 had persuaded senior management of the GATT that opening up questions on the hierarchy and mandates of future delegate bodies – as well as possibly adding a management board and/or consultative group – should be avoided. Could negotiations – as distinct from formal decision-making – have been made easier with a different structure or some subtle procedural innovations? As far as Doha is concerned, we shall probably never know. However, ironically it was the so-called “Sutherland Report”<sup>2</sup>, in 2004 that resurrected the debate on these questions. At the time, negotiators were far too confident of impending success in the Doha negotiations to take the proposals seriously.

7. But other strains were emerging in the late 1990s that undermined the capacity of the WTO to deal effectively with even the bare built-in agenda to which it was committed. Principal among them were the anti-globalisation movement and the emergence of powerful NGOs influencing trade policy-making in capitals. The defining moment in the evolution of this scene-change was the defeat of the Multilateral Agreement on Investment (MAI) in the OECD. This thoroughly ill-conceived initiative – negotiated largely in secret - would have provided very high standards of legally-enforceable disciplines to protect investor rights. While containing no measures of special and differential treatment, the clear intention of its drafters was to entrap developing countries by influencing global investment policies. Obligations for investors were virtually absent. The inevitable response was probably the loudest and most effective, coordinated campaign by NGOs – and latterly even governments (France and then Canada withdrew) – ever suffered by an international organisation.

### **D. The MAI disaster and the Seattle legacy**

8. The final death of the MAI came just a year before the WTO’s Seattle meeting and overhung the preparation of the Ministerial Conference. It had several substantive effects in Geneva. First, it put all existing trade disciplines relating to

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<sup>2</sup> *The Future of the WTO. Addressing the institutional challenges of the new millennium. Report of the Consultative Board to the Director-General Supachai Panitchpakdi, World Trade Organization, 2004. Peter Sutherland was Director-General of the GATT at the conclusion of the Uruguay Round.*

investment – notably the GATS – under increased fire. This element was added to the long-standing anti-GATS campaign based on misconceived notions of the Agreement's impact on the freedom of governments to regulate public services like water, health and education. Second, it put the pretentiously-entitled "Millennium Round" in danger because the proposed negotiating agenda – strenuously promoted by the EU Commission – included an investment agreement and possible trade disciplines in related policy areas, notably competition. Third, it gave NGOs a taste for (and some credibility in) battling against the most respected, and previously untouchable global economic institutions – both the World Bank and the IMF were later to feel their impact. The WTO just happened to be next in line because it had a new agenda on the negotiating table capable of being interpreted as another assault on the rights of developing countries.

9. Did the Seattle meeting therefore collapse because of the pressure of NGOs and zealous demonstrators? The answer at the time was, no; the meeting was dreadfully prepared and managed and fell foul of US electoral politics and developing countries' revolt against lack of transparency in the decision-making process. Even the then EU Trade Commissioner and present Director-General, Pascal Lamy, decried the WTO's methods as "medieval" stating that the WTO's procedures and rules could not support "the weight of its task"; there was no way to structure and steer discussions amongst the then 146 members in a manner conducive to consensus. The decision-making needed to be "revamped".

10. In retrospect, it was not so simple. The real significance of the MAI experience was a retreat by most OECD governments in their commitment to multilateral economic institutions and their willingness to take political risks in signing up to sweeping new commitments. Tony Blair, then Prime Minister of the United Kingdom, is a prime example of a leader who believed deeply in multilateralism and trade liberalisation but who paid no more than lip-service to the WTO's efforts after MAI and Seattle. Successive German leaders were much the same. That change has never been reversed. The unwillingness of developed country leaders to accept a political price for a Doha deal is rooted in that experience. Seattle did not descend into chaos because of it; but persistent failure of the Doha negotiations is, in part, its legacy.

## **II. The Unfolding of the WTO**

### **A. Delusions of grandeur**

11. Of course, the Doha muddle cannot be put down simply to political cowardice in the face of NGO activism. But several of the other probable causes and culprits can be identified with this period prior to the launch of the Doha negotiations in 2001. Following its establishment in 1995, the character of the institution changed. The essentially technocratic, low key GATT evolved into a more grandiose and politicised body. The second Director-General, Renato Ruggiero, was probably right in seeing the WTO as a new and positive instrument of "global governance". He was probably wrong in pushing it towards a *de facto* allegiance with the UN family. Certainly, the institution started behaving like the United Nations. In Geneva, deal-making somehow dropped out of the picture; to be replaced by limitless compromise, doctrinaire debate and a complete

disconnect from the real practical world of commerce that is the calling of the WTO. Since that time, discussion in Geneva has appeared cocooned; never more so than at this time of intense global economic turmoil, when few outside the international trade negotiating community consider that the institution of global trade has anything to offer (certainly not Doha)<sup>3</sup>.

12. In 1999, the slippery slope should have been obvious and worrisome. The failure even to settle on a replacement for Ruggiero was bad enough. The compromise – Mike Moore and Supachai Panitchpakdi with three-year, back-to-back terms – was the worst possible; neither had a real chance to make an effective or lasting contribution. At the same time, the drawback of a “member-driven organisation”, as recognised by the Sutherland Report, resulted in a conscious and related effort by delegations to diminish the influence of the Secretariat, which provided the basis for unguided negotiating processes without strategy, order or direction. Indeed, as noted in the Sutherland Report *“The diminution of the role of the Secretariat, which had previously helped to provide a clear sense of direction for the system [...] and had the capacity to inject creative proposals into the negotiating process of the GATT and the WTO [...] appears less welcome now than before”*. Only in the past year or so has that situation been corrected partially; sadly with little reward.

13. Another casualty of making the Doha negotiations the top priority and quasi-exclusive activity has been the impairment of the routine functioning of the WTO, i.e. the work in the committees and other WTO organs. In the same vein, it is perhaps the lack of progress in the negotiations that has been in the way of the convening of the Ministerial Conference, whose importance for fulfilling the mandate of the WTO cannot be underestimated. Indeed, Article IV of the Marrakesh Agreement stipulates that *“There shall be a Ministerial Conference composed of the representatives of all the Members, which shall meet at least once every two years. [...] The Ministerial Conference shall carry out the functions of the WTO and [...] shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements ...”* The last Ministerial Conference was the one held in Hong Kong in 2005.

14. But these are matters of management, albeit important matters. Other circumstances conspired to produce what was to become the negotiating mire of Doha. Perhaps the two key issues were China and development.

## **B. The China Factor**

15. China’s accession negotiations were the toughest and longest ever. They culminated in a relatively weak deal with the EU and what, on the surface and at the time, looked a much more stringent agreement with Washington at the end of the Clinton Presidency. There is no doubt that Beijing accepted an unprecedented range of commitments, even if some of the negotiated drafting at the bilateral level has turned out less clear than intended by the US. The accession deal was sealed at Doha in 2001 as the new trade round was launched.

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<sup>3</sup> See ODI, Opinion 126, *Pursuing a Doha Trade deal is a low priority*, February 2009

16. At the time, nobody thought the Doha negotiations would last so long (the Doha Declaration sought a conclusion by end-2004!); nor did anyone realise quite how dynamic - not to say, overwhelming - would be the impact of China on global trade in the years that followed. The consequence is now clear. Seven years on, most of China's commitments are implemented. Concern about Chinese competition is intense in both developed and developing countries, and just about everyone fears new Chinese inroads into their markets based on Doha tariff reductions. Only a big additional contribution by Beijing – especially on services and agriculture, as well as TRIPS – will satisfy political needs in many WTO-member capitals. Naturally, China continues to insist it has already made its contribution; and more than most.

### **C. The “Development” Contradiction**

17. In practice, the development dimension of Doha has also turned out to be a fundamental challenge, rather than the simple and broadly accepted objective intended. Again, there is a need to go back to the roots of the issue. These lie in large part in the notion that the interests of developing countries had been ignored in previous trade rounds. This became so prevalent a position in the period after the end of the Uruguay Round, driven publicly by major development NGOs, that even successive WTO Directors-General took it up as a slogan. In reality, it was an arguable claim, and hardly new.

18. The case for special conditions for developing countries has been promoted since the beginnings of the GATT. Indeed, a glance at the minutes of the Preparatory Conferences for an International Trade Organization in the late 1940s, reveals India making the same points on the need to safeguard peasant farming interests as it made in 2008 on the special agricultural safeguard. Brazil made much the same arguments then about industrial tariffs. Part IV of the GATT was added in the 1960s, to provide the basis for S&D. However, then as now, there has always been a dichotomy between different visions of the development dimension of the multilateral trading system. The rules themselves – of both the GATT and the WTO – were clearly drafted to reflect a view that market opening, albeit progressive, will create economic growth and encourage investment. The alternative view – much promoted in the 1960s and 1970s and then again in the late 1990s and the period around the launching of the Doha negotiations – holds that the developing countries need to be protected from the rigours of liberalisation and the pressures of competition for as long as possible. Most economists may argue that experience, as well as theory, demonstrates that the former position is correct, but often special interests and electoral politics tend towards the latter.

19. The Doha Agenda was cemented in this dichotomy and offered no way of resolving the internal tensions that were bound to emerge as a result. In 2001, Pascal Lamy, as EU Trade Commissioner, and Robert Zoellick, then USTR, worked frantically with others to tie up a package that, this time, had been better prepared in Geneva. The result was a “development round” (more precisely, a “Work Programme”), with references to special and differential treatment and technical support festooned throughout the text. It looked like – or was taken as - a round-for-nothing, not just for LDCs but for most developing members. In the sense that such an outcome was never deliverable politically, the approach was off the mark. Nevertheless, in the immediate post 9/11-world, with a great need to

show that multilateralism could work, almost any subterfuge may have appeared justified.

#### **D. The Emerging Economies Complicated the Development Dimension**

20. Perhaps, had the negotiations been kept to a short timeframe and limited ambition, something resembling a simple, one-sided development package might have been achievable. That would have required jettisoning investment, competition policy and transparency in government procurement – as happened later in Cancun anyway - and allowing for the prospect of a broader and more far-reaching negotiating agenda being evolved later. As it turned out, not only were deadlines extended continually, the level of ambition for what remained of the mandate – first in agriculture and then in NAMA – rose too. That was inevitable: the extraordinary rise of the emerging economies – notably China and Brazil but, in a more limited way, India – as trading and services powerhouses, made a one-sided development package less and less sellable in the big developed economies. As the Cairns Group and G20 raised their sights on agriculture, the EU, US and Japan needed a much better deal on NAMA and services.

21. Delivering something worthwhile on NAMA and services really meant squeezing the same three big, high-performing, emerging economies and preferably ASEAN, South Africa, Argentina, Mexico and a few others too. That turned the Doha negotiation back into a more classical trade round. Essentially, the same players were thrust into the limelight as in previous rounds. No longer was Doha seeking something new and especially development oriented, by 2005-06 it had become a traditional confrontation. For the most part, the EU had moved itself out of the firing line on agriculture, leaving the US both to take the flack on farm subsidies and play hardball on the concessions it needed to get business and Congressional support for any Doha result. That has been the only real dynamic in the negotiations for the past three or four years.

#### **E. Europe keeps its fig-leaves in place**

22. The EU's position has never really been tested. Would France, Ireland and the Southern European member states go along with a Doha package as easily as is implied by the Commission? Has tariff quota expansion, that might otherwise severely undermine the beef and dairy sectors, been sufficiently cooked in advance? With food consumption – especially at the high-cost end of the market -- likely to be a casualty of the recession, will *any* new market access concessions be sellable politically? Can President Sarkozy go to the French farm lobbies without something impressive on geographical indications? Indeed, Mr Sarkozy has already announced that he wants a fundamental review of the CAP prior to 2012 when the present budget expires; that is a sign that he is ready to promote reform, but not necessarily WTO-friendly reform.

23. On the US side, the political realities are easier to define than are those of the EU. There is no doubt that much of the farming sector wants a significant market-access deal through Doha. However, the traditionally protected and subsidised producers – dairy, sugar, peanuts, wheat, feed-grains and cotton, among them – are far from enthusiastic with what is on the table in Geneva.

Farmers now focused on production for biofuels – but stung by the recent collapse in crude oil prices - are worried about tariff changes that might see them swamped by competitive Brazilian products. Thus, for the agricultural community in the US, anything less than a stunning market-opening result in Doha would be doomed to death by disinterest and Congressional neglect, at best.

## **F. Private Sector Indifference**

24. This brings us to another fundamental fault-line in the Doha negotiations. Apart from ambitious trade and foreign ministers, who has ever truly wanted it? Few developing countries were ever enthusiastic but were brought – or bought – to acquiesce. Most would have preferred to digest and implement the Uruguay Round results quietly, without new challenges. As important, the private sector in the OECD countries has been sceptical at best. Unlike their support in the Uruguay Round, which was based on a very clear understanding that the GATT needed to be reconstructed or the multilateral system would collapse, major industrial firms in Europe, North America and Japan have paid lip-service to Doha. Few have ever seen it as significant for their investment or trading strategies. Globalisation, until very recently, appeared to have a dynamic largely unrelated to national policy-making. Where local laws and regulations stood in the way of expansion plans, large companies simply negotiated directly. Naturally, major agricultural producers and commodities traders have had an interest, but even these have seen their global performance thrive in the absence of any Doha results. True, some services companies have been big promoters of the Doha negotiations, especially insurance and securities firms, banks, energy services suppliers and some telecommunications operators. Again, however, they had a decade of blossoming market access and investment opportunities around the world without the flower of Doha showing itself.

25. Right now, private sector attitudes to the Doha negotiations are mixed and confused. Global companies are conscious they may be losing their unchallenged right of access in the global economy. Fear of a vicious spiral of protectionism persuades CEOs that the WTO is necessary and must be supported. However, making the jump to equate recovery from a recession – or the avoidance of a 1930s-style global depression – with a successful Doha Round stretches their imagination. Most are persuaded that NAMA will provide little – although they might be well advised that bringing down bound tariffs in the WTO does, in fact, offer very worthwhile insurance against future tariff hikes, especially in the major emerging markets. As for the services sector; the enthusiasts still bang drums, but their noise is drowned out by the current public and political backlash against the financial sector and the view that anything requiring governments further to deregulate or open public services to competition is a no-go zone for the foreseeable future. Autonomous liberalisation may still turn out to be the response to recession of some governments; but turning that liberalisation into bound WTO commitments is hardly guaranteed.

### **III. Looking into the future**

#### **A. Re-learning the Art of Deal-Making**

26. Arguably, the Doha round has been more buffeted by the external political and economic environment than most trade rounds. Neither its starting point – a time of extraordinary integration of the global economy and expansion of world trade – nor its potential finishing line – perhaps the worst recession in living memory – have been propitious. Broadly these negotiations have been discounted or ignored in the real economy. At the same time, WTO members have not always supported their own efforts in Geneva with sound judgments on procedure and process.

27. Several years were largely wasted while the Doha negotiations coasted through its era of “inclusiveness” and “bottom-up” negotiations. Certainly, the “new” approach collected proposals in large number. Certainly, the inclusive, open-ended meetings of negotiating groups generated much discussion - facilitating a more active participation of developing countries previously oblivious to multilateral trade negotiations - were necessary. What they did not do was to provide deals or facilitate the ambitious timeframe for the round. The first attempt by a negotiating chair to move the process in a substantial manner – the agricultural modalities paper tabled by the first Chairman of the agriculture negotiations, Stuart Harbinson, in 2003 – was thrown out almost instantly. Had delegations not been so precipitous on that occasion, would the story of the Doha negotiations been substantially different? Nobody can say for sure, but it is unclear that what is available now is so much more beneficial (whether from offensive or defensive points perspectives) than Harbinson’s effort.

28. Inclusiveness was largely abandoned after the Cancun fiasco. The G20 had established itself as a permanent player, with Brazil its spokesman. Its internal incongruities hardly mattered with negotiations almost back at point zero. The group’s main impact was to permit the emergence of highly selective negotiating formats meeting, for the most part, outside Geneva. The G4 tried its best, followed by the G5, G6 and so on. The process at WTO headquarters ground to a halt while ministers from these select fraternities met to resolve their differences. Indeed, there was more than a suspicion at times that what was being settled referred to the results for these members alone, rather than a political accommodation that might form the basis of settlement in Geneva.

29. In any event, it did not work. Increasingly, it became apparent that the only people in a position to drive the agriculture and NAMA processes, even in first gear, were the chairmen of the negotiating groups. At almost no point have those chairs been provided by ministers’ inputs that made a difference – at least in a positive sense. Indeed, one of the chairs, after prolonged personal exposure to them, privately described the G6 ministers as one of the most dysfunctional groups he had ever encountered. Two successive Ambassadors of New Zealand, Tim Groser and Crawford Falconer, coaxed the negotiations forward with a remarkable mixture of crafty risk-taking coupled with a grip of the substance never achieved by the ministers. It was claimed as “bottom-up” development of the modalities texts; in fact, it has never been more than a sense of how far it was prudent to go, stage-by-stage; a kind of progress by attrition, for which almost

everyone is eternally grateful. It has taken far too much time, but optimists would say that the agriculture deal is virtually there. Unfortunately, even if that is true – and it is debatable, at best – it means nothing while NAMA, rules and GIs remain spoilers.

## **B. Too many formulae?**

30. Everything negotiated so far is fragile. It is a shaky house of cards constructed on the basis of formulae – and exceptions to the formulae. Here too, the Doha negotiations differ fundamentally from those of previous rounds. Even the Tokyo Round, which saw the first manifestation of the “Swiss formula”, was nonetheless settled only after substantial and decisive bilateral request-and-offer negotiations among the major players. The claim that the Doha negotiations could not employ such classic bargaining techniques, with a WTO of 153 Members, was swallowed without question. Quite why it could work at the conclusion of the Uruguay Round – with almost 100 GATT Members (albeit without China) – and not with Doha has never been satisfactorily explained. And yet, if the EU and US perception of ambition really reduces to what Brazil, India and China are prepared to put on the table, how better to secure something worthwhile than through request-and-offer?

31. The obsession with formulae has had more than one consequence. It has put everyone in the same pot. True, the LDCs have their almost free-pass. But small and vulnerable economies, other than LDCs, have had to negotiate their exemptions or special conditions; so too have recently-acceded members (RAMs) and the very recently acceded members. Those latter arrangements, though not finally resolved, defy efforts to have China make meaningful new commitments – a key requirement for the large developed economies. Members of developing country regional trade agreements like SACU and Mercosur have demanded some special treatment as has a collection of individual countries that regard the application of even S&D-based terms of a formula as unfair to their particular circumstances. All of these groups have justified grievances or needs. Yet, the WTO will end up the Doha negotiations with a differentiation among the membership that is both significant for the future (of course, precedents will be set) and perhaps unnecessary.

## **C. But, can it still be done?**

32. In the end, however, it all reduces to a single reflection. Despite the almost fatal flaws in the original Doha agenda, despite the political incoherence of the negotiating process over the past seven years, despite the confused and largely undeliverable development objectives, can a result emerge appropriate to this troubled moment in history, capable of stimulating global commerce and holding back the protectionist instincts that are already emerging?

33. As with almost everything else on the economic sphere at present, this is almost entirely a political question. If political leaders – notably the G20 in early April 2009 – truly believe that Doha can help in the current crisis, they will need to do more than issue a communiqué to that effect. What are their options? First they can simply stick to the situation as it is and demand a conclusion at or above the current levels of ambition. If they do so, then they will need to recognise that the

fundamental problems with the Doha negotiations have not been resolved and that these will continue to frustrate even genuine political good will. If the next collapse is not the special agricultural safeguard or NAMA sectorals, it will be something else.

34. Second, the G20 at its London meeting could quietly damn Doha to oblivion by effectively ignoring it. This seems a likely outcome. The new US Administration is far from decided on the balance of interests in re-engaging in Geneva; the Indian elections in April/May will prevent New Delhi from being any more forthcoming; the Europeans will still be tearing each other apart over state aids to battered industries and banks (and a new – reduced – European Commission will be in place in November); and China needs nothing more than a standstill on protectionist initiatives in its key markets. In any event, the consuming focus of the G20 April meeting is likely to be reform of the international financial system, not trade.

35. That leaves a third option which is a scaled-down result that would send a credible political message to the markets while not putting governments in the position of defending the currently indefensible to sceptical publics and parliaments. Each and every one of the G20 leaders will have to decide what they are prepared to concede to secure a deal. This is likely to mean removing, not increasing, negotiating goals. Are new GI rules really a priority right now? Could we live without definitive provisions on “zeroing” in the antidumping agreement? Could we not accept that what is on the table now on domestic support to farmers is about the best that can be done? Can China and India really make new liberalising moves at a time when the impact of recession threatens to undermine social stability? Would simply pushing bound tariffs down closer to applied duties not be worth having at a time of severe protectionist pressures? Does a fisheries subsidies agreement really matter at a time when developed country governments everywhere are throwing money at distressed sectors of their economies? Is now the best time to be seeking substantial new opportunities in financial and other services?

36. In other words, would it not be best to wind down the, albeit already lowered levels, of ambition to get at least something out of Doha? That will not be easy. But many demands and expectations – on almost all sides – are unattainable. Stick with them, and the WTO as well as the Doha negotiations may sink.

#### **D. A Quantum Jump to Something Quickly Achievable and Relevant**

37. How might this be achieved? First, negotiators and their advisors would have to get used to the idea that they will not meet all their long-fought-for objectives. Second, the Director-General, or some other neutral and respected third party, would be given a remit to produce a complete draft final act, removing everything that is not of immediate value to global economic recovery and chopping out the unnecessary complexity of the NAMA and agriculture modalities texts. That will mean replacing much S&D treatment with a free pass for developing countries. Ideally, however, it would open the way for, say, six months of bilateral request-and-offer negotiations on market access among the major players in international trade.

38. The story of the last ten years in the WTO should suggest that this is now the optimal outcome of the Doha Work Programme. It may be disappointing for the committed enthusiasts (or those seeking to avoid a deal at any cost), but the WTO would survive and eventually recover its status as *the* place for meaningful multilateral cooperation and negotiation in the field of trade.

39. There is a real risk that Doha will be the first trade round, in the GATT/WTO era, to fail. Such a failure might normally be regrettable but not life-threatening for international trade. In the present economic crisis, it would signal added danger. But for even a partially-successful conclusion, governments will need to push their negotiators out of the cul-de-sac in which they have been stranded for years. Endless incremental advances in the modalities texts will not suffice. A quantum jump in a new conception of the round is needed, and fast.

## **Acronyms**

ASEAN	Association of Southeast Asian Nations
CAP	Common Agricultural Policy
CEOs	Chief Executive Officers
DSU	Dispute Settlement Understanding
EU	European Union
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
IMF	International Monetary Fund
ITA	Information Technology Agreement
LDCs	least-developed countries
MAI	Multilateral Agreement on Investment
NAMA	non-agricultural market access
NGO	non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
RAMs	recently-acceded members
S&D	special and differential treatment
SACU	Southern Africa Customs Union
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
TRIMS	Trade Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
US	United States
USTR	United States Trade Representative
WTO	World Trade Organization