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The end of GATT-WTO history? – Reflections on the future of the post-Doha World Trade Organization

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Deutsches Institut für
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Discussion Paper

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The End of GATT-WTO History? - Reflections on the Future of the Post-Doha World Trade Organization

Clara Brandi
Matthias Helble

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Abstract

The prospects for a successful conclusion to the Doha Development Round (DDR) have become bleak. This paper reviews the main reasons for the difficulties that World Trade Organization (WTO) members face in reaching an agreement and argues that, as the DDR is likely to be the last multilateral round of talks on trade liberalisation, it will mark the end of GATT/WTO history as we know it. Against this background, the second part of the paper discusses the future role of the WTO post DDR. We envisage its having five main functions: settling trade disputes, overseeing the international trading system and ensuring it functions smoothly; supporting capacity-building by providing technical assistance, training and Aid for Trade for developing countries; performing a research function and acting as a think-tank on trade; and acting as the key forum for discussions and reflections on all topics related to international trade.

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Abbreviations

| | |
|------|---|
| ACP | Asian, Caribbean and Pacific Group of Countries |
| DDR | Doha Development Round |
| DSU | Dispute Settlement Understanding |
| EU | European Union |
| GATT | General Agreement on Tariffs and Trade |
| GPA | Agreement on Government Procurement |
| LDC | Least Developed Countries |
| MFN | Most favoured nation |
| NAMA | Non-Agricultural Market Access |
| NGO | Non-Governmental Organizations |
| PTAs | Preferential Trade Agreements |
| RTAs | Regional Trade Agreements |
| SSM | Special Safeguard Mechanism |
| TPRM | Trade Policy Review Mechanism |
| UN | United Nations |
| US | United States |
| USSR | Union of Soviet Socialist Republics |
| WTO | World Trade Organization |
| WIPO | World Intellectual Property Organization |

“Like Horace de Saussure, the Geneva born physicist who organized the first ascent to the Mont Blanc, we have prepared ourselves for this excursion, we have made provisions, we have prepared maps, we have exercised our legs and our lungs. Also, climbing the Mont Blanc can only be achieved as a team endeavour.

We must help and understand each other all along the climb.

The only way to reach the top is understanding each others' interests and limitations.”

(Pascal Lamy, 21 July 2008, Opening Remarks)

1 Introduction

After almost 10 years the Doha Round is teetering on the edge of the abyss. After three failed attempts to conclude the Doha Development Round (DDR) in 2006, 2007 and 2008, 2011 has been seen as the last window of opportunity for an early, successful conclusion and, figuratively speaking, for reaching the top of Mont Blanc. Even in July 2008 Pascal Lamy, Director-General of the World Trade Organization (WTO), said, when convening a Mini-Ministerial Conference, that the “moment of truth” had arrived. His hopes of seeing the 153 WTO members agree on the modalities for multilateral trade liberalisation were dashed when, after eight long days of negotiation, it became evident that the differences on a few remaining issues between the USA on the one hand and India and China on the other could not be bridged. Pascal Lamy therefore decided to end the negotiations. Even though they resumed after 2008 and Lamy pushed members hard to close a deal, it became clear in early 2011 that the plan for a successful conclusion to the Doha Round in 2011 would again fail. The gaps dividing a number of large countries remained too wide, and the political will to achieve consensus on all issues was quickly fading.

Pascal Lamy was confronted with a difficult choice. He could either continue with the trade negotiations as if nothing had happened and so jeopardise the credibility not only of the DDR but also of the entire WTO as an institution. The other option was to aim for an early harvest, a tangible initial outcome of the trade negotiations. This might trigger a positive dynamic for all outstanding issues and restore confidence in the negotiations and the multilateral trading system.

In June 2011, Pascal Lamy had proposed that the goal of a comprehensive multilateral accord should be deferred and that members should develop a small package that would include a sub-set of issues on which agreement could be reached during the Ministerial Conference in December 2011. Although many members welcomed the idea of resorting to a Plan B, their views differed substantially when it came to the composition of the small package. In late July 2011, WTO members acknowledged that the small package no longer seemed a realistic goal for the December ministerial meeting. Thus, before the tenth anniversary of the launch of the Doha Round, members are beset with a substantive fatigue. More fundamental questions than ever remain unanswered: will the DDR negotiations continue next year? Will the Single Undertaking principle, which requires the acceptance of the outcome of the negotiations in a single package (“nothing is decided until everything is decided”), be abandoned?

When we look back at the history of the General Agreement on Tariffs and Trade (GATT) and the WTO, this precarious situation does not, at first sight, seem overly worrisome. In all the major rounds, negotiations have been thorny and at some point close to complete

collapse (WTO 2007). However, GATT/WTO members, and especially the USA and the European Union, have always been able to settle their differences and reach a compromise. In the end, the successful completion of eight rounds of multilateral trade negotiations has led to a substantial liberalisation of international trade. Why does completing the Doha Round appear to be so exceptionally difficult?

The first part of this paper attempts to find an answer to this question. It contributes to the existing body of literature (for example, Baldwin 2006; Evenett 2007; Martin / Messerlin 2007; Schwab 2011) by presenting additional factors that explain why the current negotiations have stumbled from one disappointment to another. Our line of reasoning is as follows: first, consensus decision-making, coupled with universal rules and strict enforcement, poses a strong challenge to the 153 parties seeking agreement around the table. Second, the heterogeneity among and within WTO members is stronger than ever. Third, the multiplicity of possible coalitions further exacerbates the complexity of the negotiations. Fourth, one reason for this heterogeneity is the lack of an overriding, common ideology among WTO members. Fifth, the slow decline of the USA as an economic superpower is also hampering the current negotiations: as US hegemonial power runs out of steam, less leadership is to be seen in the negotiations, while the newly emerging superpowers still lack the will to take on new responsibilities. Sixth, while many technical questions have already been resolved during the present Round, the issues on which agreement has still be reached are especially tricky and cumbersome. Moreover, the speedy conclusion of the Round is also being impeded by disputes over the magnitude of the Doha welfare gains, the role of such alternatives as bilateral or regional agreements, discussions about participation in the “Green Room” and the relevance of the many actors involved in the negotiations. Elaborating on these arguments, we come to the conclusion that the DDR will mark the end of the history of multilateral trade negotiations as we know them.

The second part of this paper explores the future of the post-Doha WTO and argues that there is a need to reflect on new designs for future multilateral trade talks and agreements. We suggest that the post-Doha WTO should perform five main functions: first, settling trade disputes; second, overseeing the international trading system; third, supporting trade-related capacity-building; fourth, conducting research; and, last but not least, acting as the key forum for the discussion of international trade issues.

The paper is structured as follows: Section II briefly reviews the current state of play at the Doha negotiations and then analyses the reasons for the absence of a breakthrough so far. In Section III, we argue that the DDR will mark the end of multilateral trade negotiations in their current format. Section IV outlines the future of the WTO and options for the reform of the multilateral trading system. Section IV draws a number of conclusions.

2 Why is the ascent to Mont Blanc so difficult?

The DDR was launched in November 2001, the aim being to conclude the negotiations by 1 January 2005. After a difficult Ministerial Conference in Cancún in September 2003, it became clear that it would be impossible to meet this deadline. The Hong Kong Ministerial Conference in December 2005 saw some progress made, and it was hoped that the negotiations would be completed by the end of 2006 and hence in good time before US President George W. Bush’s fast-track negotiating authority expired in June 2007. How-

ever, these hopes again proved to be overly optimistic. In the autumn of 2006, the WTO Director-General, Pascal Lamy, saw no other solution for ending the deadlock than to suspend the negotiations for an unspecified period. The suspension raised serious concerns among participants and observers about the DDR ever being concluded. When asked “So there is still life in Doha?” in January 2007, US Trade Representative Schwab replied “There is indeed life” (International Herald Tribune 2007). And the negotiations in fact resumed in February 2007. However, little progress was made that year.

In the meantime, the economic outlook for several important WTO members began to deteriorate. The US economy showed signs of a considerable slowdown, triggered by the bursting of the housing bubble. The repercussions of the credit crunch were also felt in Europe and raised severe doubts about the viability of the international banking system. It was hoped that in this situation of economic uncertainty, a successful conclusion of the DDR would send a positive signal to world markets. In addition, such forthcoming important political decisions as the Presidential election in the USA, general elections in India and the appointment of a new EU Trade Commissioner would make it nearly impossible for any deal to be reached in 2009. Pascal Lamy decided to exploit this small window of opportunity and convened a Mini-Ministerial Conference in late July 2008.

From the outset, the Mini-Ministerial negotiations focused on the two key issues that had kept the diplomats busy since the inception of the DDR: agriculture and non-agricultural market access (NAMA). On agricultural trade, the EU and USA showed their readiness to lower their trade-distorting subsidies substantially. However, the commitments made were judged insufficient by several developing countries. The talks also extended to market access flexibilities in relation to sensitive and special products. The main sticking point was the special safeguard mechanism (SSM), which would have allowed countries to levy safeguard duties in excess of bound tariff levels under certain conditions (Brüntrup / Brandi / Fuchs 2011). Several developing countries, particularly India, argued that they needed to protect vulnerable farmers from import surges. Other WTO members, among them the USA, Paraguay and Uruguay, expressed the fear that an easily applicable SSM would have the potential to cut them off from market opportunities.

On non-agricultural market access (NAMA), Pascal Lamy suggested that tariffs should be cut, using the Swiss formula, which calls for proportionally higher reductions in tariffs that are initially higher, but by different coefficients for developed and developing countries. While developed countries would have to use the coefficient 8, developing countries would have three options. The idea is that the higher the coefficient they choose (20, 22 or 25), with higher coefficients generating lower reduction commitments, the fewer tariff lines in respect of which they are allowed exemption from tariff reduction (14, 10 or zero per cent). This suggestion was considered by several delegations to be an acceptable compromise, while others, such as Argentina, were more critical.

As the negotiations entered their second week, the discussions on the SSM became more and more heated. Lamy tried to overcome the differences by proposing SSM remedies that might exceed bound tariff levels by up to 15 per cent where import volumes increased by a three-year average of 40 per cent. India and China rejected this proposal, arguing that the conditionality was excessive. In a last-ditch effort to save the negotiations, Pascal Lamy suggested that no numbers should be included, but that SSM remedies should be made conditional on “demonstrable harm” and on a review by experts. This proposal was ac-

cepted by India, but rejected by the USA, which meant that the negotiations were deadlocked. On the tenth day, Pascal Lamy decided to call an end to the negotiations. Despite its failure, the Mini-Ministerial Conference was certainly not a pointless exercise. In several areas, commitments were hammered out and, in some cases, compromise was achieved.

In September 2008, the financial crisis struck. In 2009, as a consequence of the global economic downturn that followed the financial crisis, international trade fell by more than 10 per cent. While protectionist measures increased in the wake of the global financial and economic crisis (CEPR 2010), at no time could the level of protectionism be compared to the situation during the Great Depression of the 1930s – primarily because of the WTO and its multilaterally agreed trade rules on upper limits for tariffs and restrictions on other protectionist trade measures. The successful role thus played by the WTO in containing the surge of protectionism gave new impetus to the Doha Round.

In September 2009, Lamy was re-elected as WTO Director-General. Shortly afterwards, ministers pledged to revive the Doha Round at the G20 meeting held in Pittsburgh. In late 2010, it became evident that the year 2011 would present another rare window of opportunity for concluding the Doha Round. The global economic turmoil had abated, and trade had begun to flourish again, with trade levels reaching pre-crisis levels by October 2010. Moreover, no elections were pending in any of the major WTO member states until 2012, and Russia's accession had not yet been finalised.

At the Seoul Summit in 2010, the members of the G20 voiced a plea for the Doha Round of global trade talks to be completed by the end of 2011. In early 2011, the ministers of 24 WTO member countries held an informal "Mini-WTO Meeting" during the World Economic Forum in Davos and agreed actively to drive the Doha negotiations forward so that the entire package might be assembled by July and the Round completed at the 8th Ministerial Conference to be held in Geneva by the end of the year. The main focus shifted from agriculture to industrial market access and services, with the United States calling on China and other emerging markets to strengthen their pledges in such important sectors as chemicals. However, progress was slow, and some major negotiating parties, including the USA, the EU, Japan, Canada, China, Brazil and India, did not manage to breach the stalemate. In the end, WTO members failed to keep to the envisaged Easter deadline.

The current stalemate is mostly due to a deep divide between the USA and such large and fast growing emerging economies as India, Brazil and, above all, China. US President Obama claims that the Doha deal currently proposed would not be sufficiently in the USA's export interests and that he cannot prevail over domestic protectionist forces, whose backing would be essential if he was to ratify a Doha agreement. He argues that support from US export interests would demand far more substantial tariff reductions by emerging economies, especially in such sectors as chemicals, electrical equipment and forest products. China, India and Brazil, on the other hand, argue that they cannot offer deeper cuts and more market access, particularly against the background of the restricted concessions the USA has offered on farm subsidies. Hence the impasse in the Doha negotiations.

By June 2011, WTO members had agreed to abandon their plan to reach a comprehensive multilateral trade deal and decided to attempt to agree on a smaller package at the 8th

WTO Ministerial Conference in December 2011. Several versions of a possible Plan B had been discussed behind the scenes for some weeks. Three major scenarios had emerged: a continuation of the Doha Round, with a December package that focused on Least Developed Countries (LDCs); an LDC-only package, which would have little chance of succeeding; and an LDC-plus package, which was extremely unlikely to be approved (ICTSD 2011). Under consideration for inclusion in an LDC package are the expansion of trading opportunities on the basis of duty-free, quota-free access for developing-country products, improved rules of origin, progress on cotton and a waiver allowing countries to discriminate in favour of LDC service exports.

WTO members were unsure what to include in the “early harvest” package they hoped to put together by the end of the year. Agreeing on some sort of smaller, issue-specific package proved to be just as difficult for the WTO’s 153 members as agreeing on a comprehensive multilateral accord, especially as it was also envisaged that agreement on Plan B would be achieved on the basis of consensus decision-making and as a single undertaking. For the time being, agreement on a small package seems out of reach, and the plan to adopt such a package by December is deemed to have failed. Currently, WTO members are thus faced with a highly difficult and confusing situation, not knowing how the Doha mandate may evolve after the forthcoming 8th Ministerial Conference. The core principle of the Single Undertaking (“nothing is decided until everything is decided”) is being questioned, and doubt has been cast on the completion of the Doha Round itself (Schwab 2011). There are even some calls for it to be abandoned outright so that a fresh start can be made. On the other hand, as Lamy has repeatedly stressed, considerable technical progress has been made over the past few years in determining the outline of a potential comprehensive multilateral accord. While this is true, many observers believe that the conclusion of the Doha Round has now moved into the distant future – if it is ever to be achieved at all. If it is ever brought to a successful conclusion, it will become the longest round of multilateral trade negotiations ever conducted. Will Pascal Lamy ever ascend Mont Blanc together with the 153 WTO members? Why is the DDR proving to be so difficult? The remainder of this section explains why the current negotiations are stumbling from one disappointment to another.

2.1 Decision-making challenges: consensus among 153 mountaineers?

First, the WTO system faces enormous decision-making challenges.

Although the dominant mood of most recent commentaries on the multilateral trading system is pessimistic, the WTO is, compared to other international organisations, a great success: it governs an open trading system based on rules that are almost universally accepted and respected; trade disputes are adjudicated by the WTO Dispute Settlement Body, whose rulings are almost universally implemented; its membership is almost universal; and it makes decision by consensus.

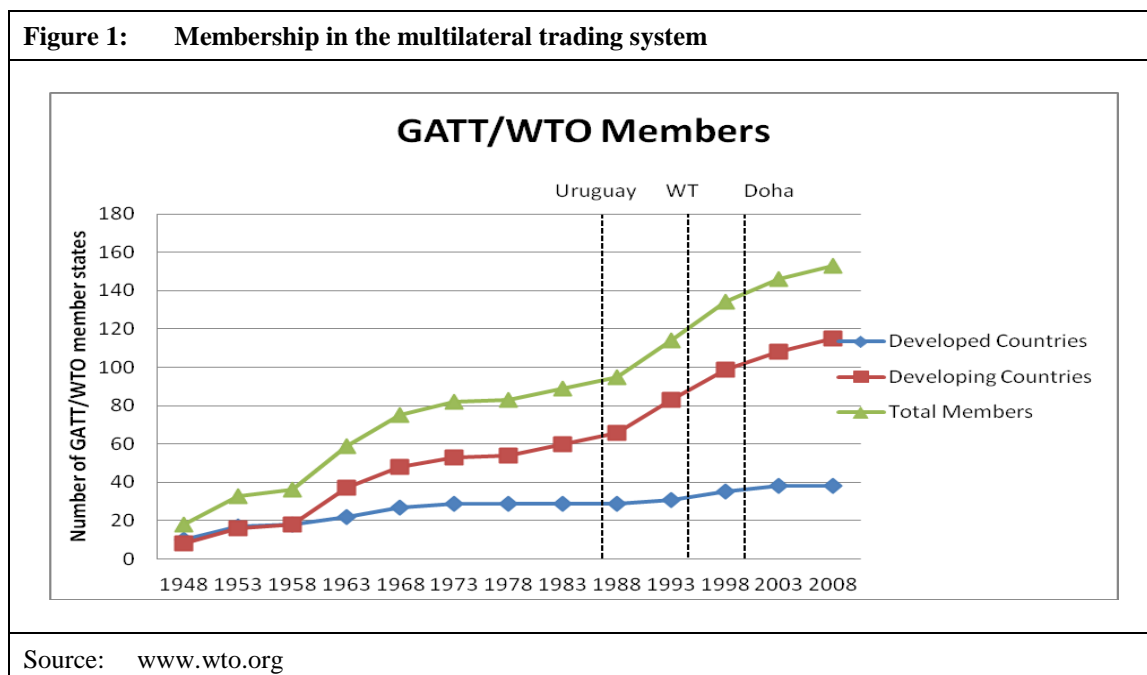
But the WTO seems to be becoming a victim of its own success. Prior to 1995, the various rounds of negotiations followed a “don’t-obey-don’t-object” logic: developing nations did not obstruct the negotiations since they were exempt from tariff cutting, and free-riding most favoured nation (MFN) meant they had an interest in rounds being completed (Baldwin 2010b, Baldwin 2011). However, the introduction of the Single Undertaking and the strengthening of the Dispute Settlement Understanding (DSU) at the end of the Uru-

guay Round have given rise to what can be regarded as the WTO’s “impossible trinity”, the combination of consensus decision-making, universal rules and strict enforcement (Baldwin 2010b). This makes it extremely difficult for progress to be made in trade negotiations among 153 member states, since developing countries now have to comply with whatever deal emerges at the end of any round of negotiations: they must accept the entire negotiation package (Single Undertaking), and the reformed WTO sanctioning mechanism (DSU) demands strict compliance. This new approach causes them to reject anything that runs counter to their own interests. This in turn makes finding a consensus among WTO members a major challenge. The impossible trinity can be overcome only if a broad deal with something for everyone is reached, which has become even more difficult with the substantial increase in the heterogeneity of WTO membership over the past few years.

2.2 Heterogeneity between and within members: mountaineers with different visions

Second, although membership of the multilateral trading system has always been characterised by diversity, WTO members have never been as diverse as today.

Since the end of the Uruguay Round, the WTO has welcomed more than 20 new members, the most prominent being China. The accession of another heavyweight, namely Russia, is imminent. Diversity of membership is almost bound to mean a wide range of views and standpoints in the trade negotiations. A country’s position in trade policy is determined by many factors, ranging from market access commitments relating to agricultural goods to safety and quality standards. In addition, delegations, especially those from developing countries, now enter the arena of international trade talks much better prepared than ever before. Delegations are now more conscious of their political leeway and the possible weight they may bring to bear in the negotiations. To summarise, as the heterogeneity of WTO membership (“*between-heterogeneity*”) is constantly increasing, it follows that the search for compromise will be more time-consuming (Baldwin 2006; Evenett 2007; Martin / Messerlin 2007).



Moreover, the greater diversity of the group of developing countries is a further obstacle to progress in the Doha Round.¹ While developing countries in GATT had small markets, industrialised countries, and especially the “Quad” (US, EU, Japan and Canada), did not hesitate to offer poor WTO members a free ride on their market liberalisation. In the meantime, however, some poorer WTO members have grown so substantially that their markets are too large for free-riding (Baldwin 2011).

It is not only the number of WTO members that has risen, but also the number of actors at national level participating in the negotiating process (“*within-heterogeneity*”). Within each national government, more and more ministries tend to be involved. The DDR has attracted more public attention than previous rounds, and more actors are now aware that the outcome may have a profound impact on the economic and social future of their own country or constituency. An example of this development is the health sector. Several developing countries, foremost among them Brazil and Thailand, send health ministry officials to the multilateral negotiations. India has set up a WTO cell in its health ministry to observe the negotiations and provide guidance whenever needed. While this wider participation of national authorities makes the DDR more participatory and inclusive, it certainly acts as an obstacle to the speedy conclusion of the round.

2.3 Multiplicity of coalitions: belonging to various rope teams

Third, the process of coalition-building has become increasingly complex and so further impedes the conclusion of the Doha Round.

Traditionally, coalitions in trade negotiations are issue-based (rather than simply member-based). In other words, the WTO members confronting each other differ as a function of the issue being discussed. Clearly, as the number of WTO members grows, so too does the number of possible coalitions. It is revealing, in a way, that even the WTO’s own online glossary has failed to keep track of all the coalitions in the current negotiations. For example, the G7 is still defined in the traditional way, rather than its members being named: Australia, Brazil, China, the EU, India, Japan and the USA. Coping with numerous coalitions slows down the negotiating process significantly. To continue with his own metaphor, Pascal Lamy needs to make very sure that the mountaineers’ ropes do not become entangled. The risk of this happening is particularly serious when a coalition is abandoned by a member without the consent of its fellow-members.

The most important observation in the discussion on the multitude of coalitions is that the key divide is no longer that between developed and developing countries. The positions of the developing countries themselves are more varied and heterogeneous than ever before, one of the main reasons being that countries in this group have followed very different paths in their economic development over the last five decades. Some have found themselves unable to generate sustained economic growth, while others have managed to nar-

1 Currently, it is left to WTO members themselves to say whether they are “developed” or “developing” countries. Given the heterogeneity of developing countries, there is some discussion about the reform of the definition and status of “developing countries” in the WTO. For a new approach to differentiating among the developing countries in the WTO for the Agreement on Agriculture see, for example, Kasteng / Karlsson / Lindberg (2004).

row the gap separating them from developed countries. As a consequence, developing countries' trade policies and interests have been drifting farther and farther apart. This stark conflict of interests among developing countries has so far been neglected by most observers, partly because, perhaps, it has been overshadowed by the highly publicised struggle among developed countries or between developed and developing countries. It is true that a large proportion of world trade is still dominated by developed countries, but developing countries have been able to narrow the gap and greatly increase their participation. Global trade has grown fourfold in the past two decades, South-South trade more than tenfold.

The clearest examples of the key role played by developing countries in the negotiations are to be found in the field of trade talks on agricultural goods. At the end of the first week of the Mini-Ministerial meeting in 2008, the EU reached an agreement on its banana import regime with eleven Latin American countries and the USA. Following a proposal by Pascal Lamy, the EU agreed to cut its MFN tariff on bananas to 114 euros/tonne by 2016. This deal encountered strong opposition from the African, Caribbean and Pacific (ACP) group of countries, which have so far enjoyed preferential access to the EU banana market. The ACP countries argued that the agreement would crowd their producers out of the EU market and threatened to block the DDR. Another example is the debate on the SSM, which led to a breakdown of the Mini-Ministerial in 2008. Such agricultural exporters among the developing countries as Uruguay and Paraguay disagreed with the proposal put forward by the G33, a coalition of developing countries formed to defend a strong SSM.

2.4 Lack of ideology: why the fuss about Mont Blanc?

Fourth, while all negotiations prior to the Doha Round were initiated against the backdrop of the Cold War and its battle of ideas, WTO members no longer have this unifying force.

In 1947, GATT emerged as a by-product of the negotiations on the creation of an International Trade Organisation (WTO 2007). The liberal idea that there is much to be gained economically from freeing trade was firmly embraced by the mere 23 founding members. The key principles of GATT remained largely unchanged as membership grew over the years. More and more countries became conscious that an open economy had greater growth potential than a closed one. GATT's founding fathers were aware that opening trade up would create not only stronger economic ties, but also more robust political links. At the onset of the Cold War, it was believed that closer political and economic interests would also help to combat the expansion of the communist bloc.

After the Second World War, the Soviet Union transformed Central and Eastern Europe into a virtually self-contained unit (Thorbecke, 1960). The Soviet Union participated in the negotiations on a potential International Trade Organisation, but never joined GATT because the free-market principles underlying GATT could not be reconciled with the Soviet Union's centrally planned economy. Furthermore, the outbreak of the Cold War hindered meaningful cooperation between the Soviet Union and the leading GATT members, particularly the United States. Some authors also argue that Stalin envisaged two separate world markets, one socialist, one capitalist, which would not interfere with one another (Sobell 1986).

Being relatively self-sufficient, the Soviet Union was able to maintain this strong position for a long time. However, several of the Central and Eastern European countries under communist rule began to show an interest in joining GATT. This would enable them to

buy sophisticated technology from the West more easily. As a consequence, an increasing number of communist countries sought GATT membership. Czechoslovakia, a founding member of GATT, retained membership even after the communist takeover. Yugoslavia became an observer in 1950 and a full member in 1965. Poland and Romania were admitted as observers in 1957 and gained full membership in 1967 and 1971, respectively. Hungary started as an observer in 1966 and became a full member in 1973. Finally, Bulgaria and China gained observer status in 1967 and 1983, respectively. The USA saw these countries' membership of GATT as highly encouraging in its fight against communism. At the same time, it required a GATT that functioned smoothly and remained an attractive option.² From the US point of view, the smooth functioning of GATT was partly due to the fact that the Soviet Union was not a member. After all, Soviet membership of the UN had proved to have a paralysing effect on some of its agencies (Sobell 1986). The USA feared that, once admitted to GATT, a similar stalemate situation might arise.

Having been refused GATT membership, the Soviet Union developed its own strategy to integrate communist economies into the world economy, launching the communist aid and trade offensive in the late 1950s. One of the aims of this initiative was to intensify trade links with non-communist developing countries. The USA saw it as a major provocation and, shortly after his inauguration, US President Kennedy decided to launch a new round of multilateral trade negotiations. In 1962, in a special message to Congress on foreign trade policy, he justified his decision by arguing that "Soviet bloc trade with 41 non-communist countries in the less-developed areas of the globe has more than tripled in recent years; and bloc trade missions are busy in nearly every continent attempting to penetrate, encircle and divide the free world."³

This bipolar rivalry continued until the late 1980s, with the USA ready to defend the principles of the free market economy in each round of multilateral trade negotiations. During the Cold War, GATT members tried to reach agreement among themselves as they faced the threat of communism. Up to and including the Uruguay Round, all negotiations began against the backdrop of the Cold War, which consisted mainly in a war of ideas. This pressure has ceased to exist. The principles of the market economy are now more widely accepted than they were during the Cold War. However, the growing fear of globalisation, debates on the development effect of trade liberalisation versus protectionist industrial policy and concerns about the distribution of the benefits and burdens of trade liberalisation continue to challenge multilateral trade talks. Accordingly, these talks are not merely about trade, but rather how trade liberalisation should be managed, which further complicates the negotiating agenda.

2.5 The hegemonial power runs out of steam: the mountain guide's energy is waning

Fifth, while the United States has always driven the multilateral trade liberalisation project forward, it is currently running out of steam.

2 Detaching these countries from the communist bloc might have been one of the earliest signs of the "triumph of the West" as described by Fukuyama (1989) after the fall of the Berlin Wall.

3 President John F. Kennedy gave four more reasons for launching a new round: first, the rapid growth of the European common market; second, the USA's/EC's deteriorating balance-of-payments position; third, the need to foster economic growth; and fourth, the need to open new markets for Japan and developing nations.

The USA's ability to "go it alone" has dominated the construction of GATT and other post-Second World War institutions. The post-war era was marked by the concordance of US predominance and an open international trade regime. While some view the USA as having extracted trade concessions from less powerful states during this phase, others regard this concordance as proof of the USA's willingness to forgo improvements in its position vis-à-vis less powerful trading partners with the aim of strengthening the position of the alliance (and itself) vis-à-vis the only rival for systemic leadership, the Union of Soviet Socialist Republics (USSR) (Gowa 1994). While scholars continue to debate the USA's status as an empire and to examine the features of its hegemony (Strange 1987; Cox 2001; Morgan 2008), others have referred to what is known to some as the passing of the "unipolar moment" of the post-Cold War era (Krauthammer 1990).

Today, the USA's once undisputed leadership has given way to the realities of its financial crisis and the emergence of new superpowers and, perhaps, the G20, or part of the G20, as the new "enacting coalition" (Gruber 2000) of the 21st century. But at this time of the "Doha deadlock," many countries have begun to adopt the position that "no deal is better than a bad deal," while the new powers have so far been unwilling to show the leadership needed to drive the Doha Round forward. Several commentators stress that renewed US leadership is needed if the Doha Round is to be concluded (Baldwin 2010a). Others argue that the future of the Doha Round and of the post-Doha WTO hinges on the willingness of such emerging economies as India, China and Brazil to accept the responsibility and leadership that result from their new position in the global economy (e.g. Baldwin / Evenett 2011a). The question of leadership, i.e. who leads the way to a new agreement and how that leadership is to be exercised, may well be one of the most pressing questions of our time where the future of multilateral trade governance is concerned.

2.6 Difficult issues: icy conditions ahead

Sixth, a further obstacle to the conclusion of the Doha Round in the near future is that the issues still to be addressed raise difficult questions.

In the early years, GATT trade rounds concentrated on reducing industrial tariffs, an area in which measurement and negotiation are straightforward. During the Tokyo and Uruguay Rounds, which focused on more intricate matters, progress slowed. The Tokyo Round in the 1970s was the first major attempt to tackle non-tariff trade barriers. The eighth period of negotiations, the Uruguay Round from 1986 until 1994, was the last and most extensive of all and included agriculture for the first time. Many of the "leftovers" from the Uruguay Round, including non-tariff barriers and services, are less clear-cut than those discussed during earlier rounds of trade negotiations. For example, it is not easy to bring about the legislative and regulatory modifications required to open up service markets during multilateral trade negotiations conducted in keeping with a mercantile "exchange of concessions" (Hoekman 2010). This has led to taxing negotiating conditions in the present Doha Round, which in turn explains the frosty relations between some negotiating parties in the recent past. Another major sticking-point for the Doha Round is the further liberalisation of the agricultural sector, which will be extremely difficult, given, for example, the strong domestic opposition of the relevant lobbies in the USA and the EU to reducing agricultural protection and subsidies (Brüntrup / Brandi / Fuchs 2011).

2.7 Little incentive: is Mont Blanc worth the effort?

Seventh, some commentators also question whether the present set of incentives make it worth the effort to promote the Doha Round and to conclude a new trade agreement.

On the one hand, some commentators claim that the multilateral trading system is currently functioning well and not necessarily worth revisiting in ongoing or future trade talks (e.g. Moore 2005). This may certainly be said to be true of certain elements of the system, especially its dispute settlement function. The success of the WTO's decision-making and negotiating functions, on the other hand, has been challenged by many in the light of its poor "efficiency" in bringing about agreements on trade liberalisation. Yet others emphasise that trade policy – and trade liberalisation – should be shaped in the light of such public policy objectives as sustainable development, set out in WTO agreements, and that the appropriate speed and efficiency of negotiating processes capable of reflecting such goals may rightly vary (Deere-Birkbeck 2009).

Apart from this disagreement on the current functioning of the WTO, there may also be doubts about the quantity of possible gains at stake in the current Doha Round. The World Bank's widely publicised 2005 estimate put the global gains from a "likely Doha scenario" at less than \$100 billion, with just \$16 billion going to developing countries (Andersen / Martin / van der Mensbrugghe 2005). More recent analyses of what is on the table in the Doha Round show that global welfare could increase by about \$160 billion as a result of reductions in barriers to trade in manufactures and agricultural products, even if there are likely exceptions for sensitive and special products (Laborde / Martin / van der Mensbrugghe 2010). According to a recent study by the Peterson Institute, if the Doha Round was also to reduce barriers to trade in services by 10 per cent and if improvements in trade facilitation are taken into consideration, annual global welfare gains could be as high as \$300 to \$700 billion (Adler et al. 2009). Moreover, and contrary to previous modelling estimates of global trade, the Peterson Institute study claims the benefits are "well balanced between developed and developing countries" (Hufbauer and Schott 2010).

However, critics question the reliability of current trade models and argue that the gains from what is really on the table for manufactures and agriculture are of the same order of magnitude as indicated by previous studies, with the developed countries the main beneficiaries, while the new estimates for services and trade facilitation are highly speculative, use questionable methodologies and assume far more ambitious outcomes than seem at all likely at this point (South Centre 2009). Overall, opinions differ on the extent to which the Doha Round will have other trade liberalisation effects. Doubts about the benefits likely to be achieved further undermine efforts to reach the summit.

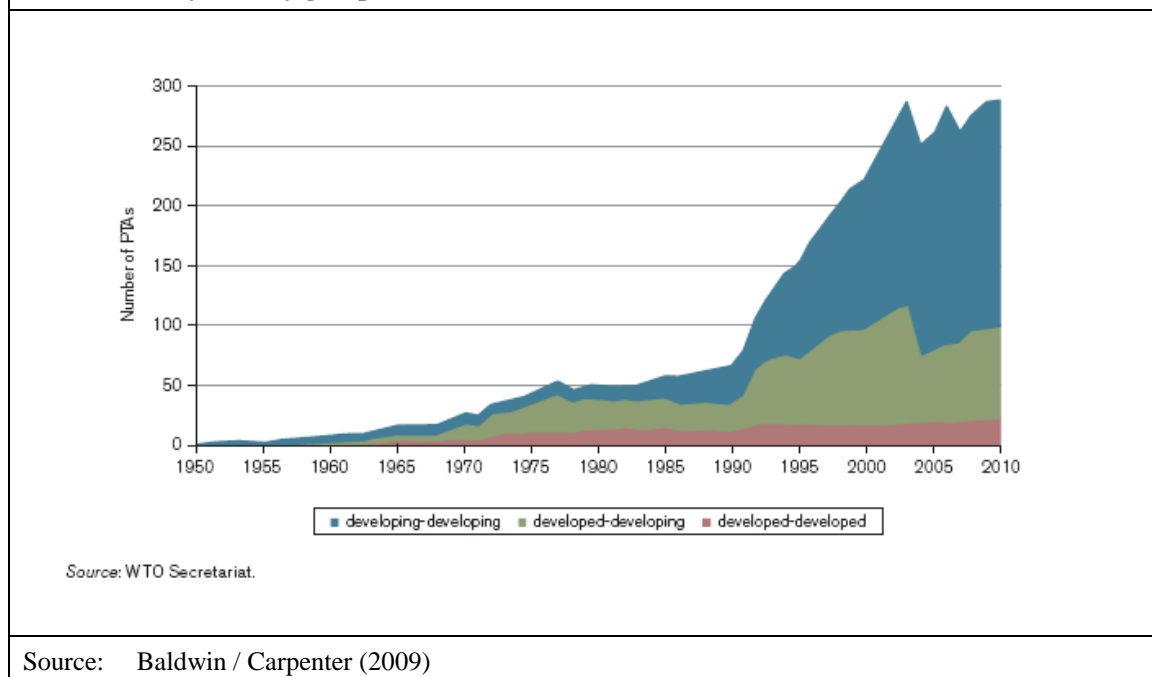
2.8 The role of alternatives: what about other summits?

Eighth, other prospective summits may be regarded as promising alternatives to the protracted and challenging ascent of Mont Blanc.

One reason for the growing importance of alternatives to the multilateral WTO forum is that, in a fast moving business world, companies cannot wait years for trade liberalisation to happen and are therefore promoting the search for alternative settings in which new trade deals can be reached more swiftly. This is one of the main reasons for the latest surge in the preferential unilateral, bilateral and regional trade agreements which have

posed a systemic threat to the WTO since its creation in 1994 (Bhagwati 2008). According to the WTO, the GATT/WTO had been notified of 489 preferential trade agreements (PTAs) by May 2011 – of both a North-South and a South-South nature. On that date, 297 agreements were in force. One concern is that the so-called Quad countries (US, EU, Japan and Canada) now seem to regard bilateral agreements as a less difficult way of achieving what they would otherwise have had to struggle for in the context of the multilateral trading system. An additional concern is that the emerging economies, and China, Brazil and India in particular, do not really seem to be dedicated WTO adherents. Moreover, the existence of alternative negotiating platforms opens the way to forum-shifting. Negotiations on intellectual property rights, for instance, form part of WHO's and World Intellectual Property Organisation's (WIPO's) agendas, but not WTO's.

Figure 2: Cumulative number of PTAs in force, 1950–2010, notified and non-notified PTAs, by country group



2.9 Process: who will be first to reach the summit?

Ninth, in addition to the aforementioned leadership challenges on the way to the summit, questions continue to be raised about who is a sherpa, trotting along behind, and who is a mountaineer, going ahead and choosing the preferred path to the top.

During the Uruguay Round, developing countries had expressed frustration with the “Green Room” system, named after the venue of inner-circle meetings. Even though small group discussions are now used more sensitively than they were in the days of the Uruguay Round, restricted access to negotiations still gives rise to complaints from most developing countries that they cannot participate effectively in WTO decision-making, as

was the case during Doha Round negotiations in 2008 (Patel 2007).⁴ Most of the over 100 developing-country members of the WTO have enduring grievances about their inability to participate effectively in Green Room processes and WTO decision-making.

Whereas proposals on WTO reform in the late 1990s focused on concerns about the exclusive nature of the “Green Room” and called for the formalisation of the negotiating process to enhance representation and transparency, the negotiating process has now evolved and is far more dynamic than many commentators acknowledge (Deere Birkbeck 2009). Power configurations are evolving, and there is constant improvisation with respect to strategies for reaching consensus and closing deals. WTO negotiations have traditionally been conducted in concentric circles, beginning with the group of Quad countries, then extending to emerging economies and gradually expanding to include the remaining member states. Nowadays consensus-building has shifted to small group discussions that include India and Brazil. But the underrepresentation of many smaller developing countries in WTO decision-making and their demand for participation remain central challenges in the daily work of the Doha negotiations.

2.10 Increasingly complex communication: how to get the photographers to the summit?

Tenth, a similar dynamic is observed when it comes to other interested stakeholders. Not only are developing countries demanding a greater say: various other stakeholders, including non-governmental organisations, also want to join in.

The result of debates on accountability and legitimacy has been a range of reform proposals – some fairly abstract, others very specific – seeking to embed principles of the democratic process, inclusiveness, transparency and representation in WTO decision-making (Schott / Watal 2000; Pedersen 2006). These proposals have in turn triggered counter-proposals and rebuttals. Some developing countries, for instance, oppose calls for the greater participation of civil society in the WTO’s formal decision-making, concerned that this would put better-resourced Non-Governmental Organizations (NGOs) in developed countries at a greater advantage. Some analysts caution against proposals for the private sector and/or civil society to play a greater role in WTO deliberations, arguing that the trade-offs with efficiency may be too high and that accountability and transparency problems should first be considered at national level, through enhanced and more participatory national trade policy-making processes (Wolfe / Halle 2007). Civil society organisations have also appealed for constraints on the influence of big business and multinational corporations on the WTO agenda-setting and negotiating processes (Sell 2000). On the other hand, advocates of greater developing-country participation in the trading system often argue that the increased involvement of developing-country business interests in national preparations for multilateral negotiations is vital if they are to derive greater benefit from the multilateral trading system (e.g. Jones / Deere-Birkbeck / Woods 2010, 36-44). Today, non-state stakeholders are far more involved across WTO activities than anticipated in much of the initial scholarship on reform (Deere-Birkbeck 2009). Overall, the resulting

4 “We do not want an invitation for the green room, since we do not want to be part of the group that ascends the Mont Blanc and then tells the other 120 how Geneva looks like from the sky.” (Pablo Solón, 22 July 2008)

multiplicity of actors further complicates the processes of both negotiation and communication.

3 The importance of Mont Blanc and the future of the WTO

Despite these many challenges, it is important that the aim should be to bring the long-running Doha Round to an end – even if the magnitude of its liberalisation effects is contested. Above all, its conclusion will make for greater security of market access through the negotiation of enforceable commitments that outlaw protection or support for domestic industries above a certain threshold (Hoekman / Martin / Mattoo 2010). The global crisis has further underlined the importance of such binding commitments. WTO rules leave considerable leeway for interventions in trade, since many countries have considerable scope for raising their tariffs before reaching the upper limits defined in WTO agreements. Lowering these tariff limits, eliminating export subsidies and laying down other trade rules in the Doha Round would greatly reduce the opportunities for trade distortions which are WTO-compliant.

While the conclusion of the Doha Round would promote the WTO's important function of limiting protectionism, it would also be valuable for a number of other reasons (Hoekman 2010). It would, for example, generate environmental benefits by imposing discipline on the use of subsidies that encourage over-fishing and lowering barriers to trade in environmental goods and services. It would also expand trading opportunities for least developed countries on the basis of "duty-free and quota-free" market access. Finally, concluding the Round would provide opportunities for addressing crucial issues beyond the present negotiating agenda, including investment, competition policy, climate change, export restrictions and duties, government procurement and institutional reform of the WTO (e.g. Baldwin / Evenett 2011b).

Overall, for the reasons considered in this paper, the ongoing Doha Round – whether it is ever successfully concluded or not – is likely to be the last round of multilateral trade negotiations conducted under the auspices of the WTO.⁵ Even if the DDR is concluded one day, the outcome, apart from the more general benefits mentioned in the last paragraph, will be rather meagre in terms of pure gains from trade. The disappointment for all stakeholders will be considerable; the negotiating efforts made over many years will contrast starkly with the results achieved. We conclude that the DDR will mark the "end of history" of multilateral trade negotiations as we know them. Yet this would not cause the system to collapse. Apart from acting as a forum for agreement on global trade regulation and the settlement of trade disputes, the WTO performs a range of other functions, which are often overlooked by commentators and specialist literature alike and all of which represent important WTO output. They include the monitoring of national trade policies, assessment and evaluation, research and support for capacity-building.

Thus, even if Doha is the last major round of multilateral trade negotiations, the WTO's survival is not necessarily at stake. We argue that the WTO will play five main roles: (i) enforcing current global trade regulation and settling disputes, (ii) monitoring and surveil-

5 Another reason is that an increasing number of regional trade agreements contain dispute settlement provisions, which further undermines the role of the WTO, above all in terms of its dispute settlement function.

lance, (iii) conducting research and disseminating findings on international trade and the functioning of the multilateral trading system, (iv) involvement in the provision of Aid for Trade, and (v) acting as a forum for deliberations and consultations on international trade.

- (i) *Dispute settlement function:* Prior to the establishment of the WTO in 1994, disputes over compliance with WTO rules were dealt with under a pure veto system, which was thus voluntary: under the old GATT system of settlement, a Panel ruling could be adopted only by a unanimous decision of the GATT Council. Under the new WTO system, on the other hand, the Dispute Settlement Body – the WTO organ responsible for the adjudication of disputes – automatically adopts the Panel’s or Appellate Body’s ruling unless members unanimously agree otherwise. This means that countries can no longer block the adoption of a Panel ruling that their policies are in violation of WTO rules.
- (ii) *Surveillance function:* The WTO performs essential surveillance functions, particularly on the basis of reviews of member states’ trade regimes under the Trade Policy Review Mechanism (TPRM), an annual report by the Director-General that gives an overview of developments in the international trading environment, a transparency mechanism for regional trade agreements (RTAs) and an initiative to monitor protectionist measures in response to the financial crisis (Hoekman 2011). In addition, the Appellate Body will continue to perform its function of ensuring compliance with WTO rules and dispute settlement. The WTO’s surveillance function may be further strengthened in the future (Ghosh 2008). It may also be enhanced with a view to empowering developing countries (Brandi 2010, 69-70). For example, trade impact assessments should be strengthened so that greater account is taken of development concerns in the decision-making process. To achieve this aim, the appointment of a Trade and Development Ombudsman might be considered, third parties submitting specific concerns about sustainable development for the attention of WTO members (Peña 2009, 65). Furthermore, the Trade Policy Reviews could serve as a tool that helps governments to integrate development considerations into decision-making on trade by including an assessment of the effects of trade rules in the light of development objectives and identifying national trade-related hurdles that impede their achievement (Ghosh 2008).
- (iii) *Research function:* The WTO will continue to perform its research function and act as a think-tank on trade. More resources are being allocated to the WTO’s internal research, and it has launched its own annual *World Trade Reports* and the journal *World Trade Review*; there has been a growing focus on cooperation with external researchers and with developing-country research centres (Deere-Birkbeck / Monagle 2009, 4). Building on these efforts, the WTO should help to improve further the collection of data on current trade policies and trade flows (Evenett 2011) so as to fill the gaps when it comes to international trade issues (Stoeckel / Fisher 2008). It should also focus on the dissemination of this information and on public outreach and sharing information with a range of non-state stakeholders. Given the importance of information and expert knowledge in trade negotiations, some WTO scholars propose enhancing the WTO’s research function and increasing the research capacity within the WTO Secretariat (Peña 2009). Others suggest that there should be less focus on increasing the research capacity within the Secretariat and more cooperation with other international organisations or more attention paid to building capacities at regional or national level and to the role of non-governmental actors in providing governments with research findings, policy analysis and negotiation advice (Deere-Birkbeck / Monagle 2009, 147-49).

- (iv) *Assistance function*: While the success of the Aid for Trade initiative (Brüntrup and Voionmaa 2010) depends on the WTO members, the WTO will continue to be associated with important aspects of technical assistance, training and capacity-building, not least as the initiator of the Aid for Trade agenda and as its moral watchdog. The launch of the Aid for Trade initiative during the Doha Round helped to link bilateral and multilateral development cooperation agencies more closely to the trade integration agenda, which is an indication that the WTO is attempting to live up to its coherence mandate (Hoekman 2011, 19). Yet there is a need for greater efforts regarding trade-related capacity-building and Aid for Trade, with a view not only to improving financing but also governance and monitoring – and there is scope for the WTO to play an important role in this respect (Deere 2007, 14). The WTO trade policy review process, for example, could be reformed to promote adequate capacity-building through the inclusion of a new element for LDCs that evaluates the extent to which developed countries have honoured their capacity-building commitments to these countries (Deere-Birkbeck 2009, 34).
- (v) *Deliberative function*: To strengthen the WTO’s deliberative function, its “middle pillar”, lying between negotiation and litigation, should be enhanced. Although the WTO, in acting as a multilateral forum for trade negotiations and providing the most effective mechanism for the settlement of trade disputes, has been considered one of the most successful international organisations, the slow progress and uncertain future of the Doha negotiations suggest the need to reinforce its “middle pillar.” This could be achieved with the aid of consensus-building and transparency-enhancing instruments. The WTO might, for instance, help to specify and strengthen “bottom-up” negotiations on issues on which enough WTO members are able to agree (Evenett 2011). Other possible approaches that have been discussed include a focus on “soft” WTO law in the form of declarations and recommendations that could be approved by the General Council or WTO committees and a focus on model WTO implementation in the shape of non-binding clauses that would be considered as WTO-compliant means of fulfilling WTO obligations at national level. On the basis of its deliberative function and a constructive dialogue among WTO members on various trade-related issues, the WTO would help to insert a trade policy viewpoint into relevant international and national policy discussions (Evenett 2011; Evenett 2009).

In sum, while the WTO system acts as a forum for agreement on global trade regulation and takes care of trade disputes, it also performs a range of other functions often neglected by the literature; they include the monitoring of trade policies, research and the dissemination of the findings, support for capacity-building and acting as a platform for the consideration of trade issues.

4 WTO reform options

The need for and potential of institutional reform of the WTO and the governance of the multilateral trading system have now been debated for more than a decade. In 2005, when Pascal Lamy became the WTO’s Director-General, he suggested that WTO reform should be a crucial priority for the post-Doha agenda. Preparing the WTO’s rule-making function for the future will arguably require a modification of at least one corner of the “impossible trinity” as defined above: consensus, universal rules and strict enforcement (Baldwin

2010b). There are a number of ways of weakening the impossible trinity, all of which merit further research.

- *Dispute Settlement Mechanism:* Limiting the authority of the Dispute Settlement Mechanism would eradicate the strict-enforcement dimension for all WTO members, but only in respect of particular issues (Baldwin 2011). For example, even now the Agreement on Government Procurement (GPA) is not subject to the authority of the Dispute Settlement Mechanism. There is an immense body of literature on the operation of the WTO dispute settlement system and on proposals for its reform (Hecht 2000; Hoekman 2011, 15-18). Yet most members and observers agree that the system works reasonably well.
- *Qualified majority voting:* Another option is to reform the rules on the need for consensus, which has been the subject of intense debate both in scholarly and policy-making circles. On the one hand, the consensus rule is seen as one of the main causes of inefficient decision-making processes and deadlock, enabling a small minority to obstruct a decision (Cottier / Takenoshita 2003; Ehlermann / Ehling 2005; Steger 2009; Steger / Shpilkovskaya 2010). Others defend the consensus rule (Howse / Nicolaidis 2003; Pauwelyn 2005; Wolfe 2005; 2007), arguing, for example, that it ensures that the interests of each of the negotiating parties concerned are taken into account. The need for consensus could, for example, be eliminated by allowing an agreement among a sub-set of WTO members to apply to the entire membership (Levy 2010, Tijmes-Lhl 2009). Qualified majority voting has no precedent in the multilateral trading system – whereas this type of decision-making plays an important role in many other international institutions, including the EU and the World Bank. One major difficulty with this approach in the WTO is that qualified majority voting does not necessarily mean that the countries overruled would be willing to implement the trade rules adopted (Levy 2010). More generally, many commentators agree that, at present, WTO members fall short of an adequate commonality of purpose for voting to become a practical alternative in the coming years (Low 2009).
- *Plurilateralism:* A further option is to leave more room for plurilateral agreements by obviating the need for consensus and universal rules in certain cases (Baldwin 2011). Although the WTO's agreements are usually binding on all member states, there is some room for plurilateralism: the Plurilateral Agreements on Government Procurements and on Trade in Civil Aircraft and the International Dairy and International Bovine Meat Agreements have a smaller group of signatories and have remained "plurilateral agreements." Plurilateralism is sometimes referred to as the "variable geometry" or "club of clubs" approach (Lawrence 2006) and has also been discussed in the context of the EU (Wohlgemuth / Brandi 2007). While a "club-of-clubs" approach would lead to a multi-tier system with differentiated commitments, there is already considerable differentiation of obligations across WTO member states (Hoekman 2011). If greater scope was to be provided for plurilaterals, it would have to be determined how far subgroups could go under the WTO umbrella. Several commentators argue that, under certain conditions, a move closer to plurilateral agreements is an attractive option for making WTO rule-setting more dynamic, suggesting that plurilateralism might become the next key movement in international trade liberalisation efforts (Draper 2010; Levy 2006; Gallagher / Stoler 2009; Levy 2010). Others argue, however, that a more permissive variable geometry would strain limited WTO resources and constitute a disruptive development for the multi-

lateral trading system (Sutherland et al. 2004; Wolfe 2007). Critics also argue that plurilateral agreements will tend to be restricted to industrialised countries, with many developing countries unable to take part in negotiations that will set a precedent which will be difficult to modify later if and when previous non-signatories choose to join (Hoekman 2005; Wolfe 2007).

- *Regional trade agreements*: Regional trade agreements (RTAs) weaken the consensus and strict-enforcement dimensions of the impossible trinity for a sub-set of WTO members (Baldwin 2011). Under specific conditions, WTO members are permitted to enter into PTAs. The number of RTAs in force has been growing steadily, a trend likely to be boosted by the many PTAs currently under negotiation. Unless the WTO is reformed, members are likely to continue to “vote with their feet” by signing PTAs and so potentially further undermining the multilateral trading system (Bhagwati 2008). In the light of the proliferation of RTAs, the goal should be to ensure that their design and implementation is WTO-friendly through the avoidance, for instance, of industry-specific rules of origin or a narrowing of the margin of preferences for RTA members over time (Schott 2011).

5 Conclusion

Even the failure of the Doha Round will not mean that the WTO is doomed; however, its role will be different: while the “end of history” for major WTO negotiations will be upon us once the Doha Round is completed, the WTO will continue to perform important functions, above all in the areas of monitoring and surveillance, and research on international trade and the functioning of the multilateral trading system. The “end of history”, as Fukuyama put it, “does not by any means imply the end of international conflict per se.” Accordingly, multilateralism remains an enduring need. Against this background, rather than the WTO being considered ineffective, it should be acknowledged that the multilateral trading system is capable of performing many crucial functions that clearly go beyond that of acting as a forum for multilateral trade negotiations – now and in the future.

In the absence of a reform of the WTO that addresses the “impossible trinity”, the trend towards regional trade agreements is likely to persist, which will further undermine the multilateral trading system. If the erosion of the WTO is to be avoided, there is a need for agreement on modifications to the system that will strengthen WTO centrality, above all as a forum for trade negotiations. The possible nature of those modifications, including reforms that increase the scope for plurilateral agreements and the ways in which such agreements are managed by the WTO, is a key issue for future research, which will play a central role in the establishment of a multilateral trading system once GATT/WTO history as we know it ends.

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