

REFLECTIONS ON THE WORLD TRADE ORGANIZATION AND THE PROSPECTS FOR ITS FUTURE

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I INTRODUCTION

The past year has been a tumultuous one. Stock prices have tumbled, the financial system has nearly collapsed, oil and other commodities have declined sharply from record highs and inflationary pressures in the first part of the year have turned into deflationary concerns. More surprisingly, the United States, United Kingdom and other staunch defenders of the 'free market' have nationalised banks and other industries while their central banks have repeatedly injected capital into the system in an attempt to stimulate credit markets and restore economic order. The prospects for the remainder of 2009 look grim, as the world is in an economic recession, unemployment is rising, trade volumes are declining (for the first time since 1982) and no one is certain when the financial turmoil will subside.¹ Global manufacturing is slowing as fast as demand is diminishing and foreign direct investment continues to sharply decline. Despite several joint statements from world leaders warning against the dangers of protectionism, it is in fact on the rise in a number of countries,² while public support for liberalised trade is low among others, most notably the US.³

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¹ Dominique Strauss-Kahn, Managing Director of the International Monetary Fund ('IMF'), recently called this period the 'Great Recession' and the IMF expects global growth to be negative in 2009. The world has not experienced negative growth since 1945. See Graeme Wearden, 'IMF: World Economy to Shrink for First Time in 60 Years in "Great Recession"', *The Guardian* (London, UK) 10 March 2009 <<http://www.guardian.co.uk/business/2009/mar/10/imf-great-recession>>. The World Bank also expects negative growth in 2009. See 'World Bank Boss Warns on Global Economic Growth', *Agence France Presse Newsfeed* (London, UK) 12 March 2009.

² See eg, 'G7 Agrees to Combat Crisis, Pledge Free Trade', *South China Morning Post* (Hong Kong) 16 February 2009, B1. For further information relating to the increase in protectionist measures since late 2008, see, eg, Elisa Gamberoni and Richard Newfarmer, 'Trade Protection: Incipient but Worrisome Trends' (4 March 2009) *VOX* <<http://www.voxeu.org/index.php?q=node/3183>>.

³ Perhaps for this reason, all of the Democratic candidates in the 2008 US presidential election campaigns questioned the *North American Free Trade Agreement* ('NAFTA'), recently negotiated trade agreements and certain aspects of free trade more generally. See, eg, the US Administration's stance on this issue: US White House, *Organizing for America — Plan to Strengthen the Economy* (2008) <<http://www.barackobama.com/issues/economy/#trade>>. See also Laura Carlsen, 'Obama Reaffirms Promise to Renegotiate NAFTA', *The Huffington Post* (Chicago, US) 12 January 2009.

In such a climate, the question must be asked whether the liberalisation of trade policy is still important. The financial crisis certainly seems to be the more pressing issue, and trade has steadily grown since the process of reducing tariffs and other barriers to trade began with the creation of the General Agreement on Tariffs and Trade ('GATT 1947')⁴ following World War II. Since its creation in 1995, the World Trade Organization ('WTO') has continued the trade liberalisation process, and expanded the mandate of the prior GATT regime to cover other trade-related topics, such as services and intellectual property. But with the world in economic crisis, and the WTO's Doha Round of trade negotiations floundering, is it now the time to consolidate the gains and shift the negotiating focus to other issues?⁵ Is trade liberalisation even the correct course of action during this 'once in a century' economic crisis?⁶

Abandoning the work of the WTO would be a mistake. Trade policy remains important, and it can play an important role in aiding the world's economic recovery. The WTO as presently constituted, however, is ill-equipped to manage contemporary challenges, and must transform its processes in order to remain relevant in the changing political and economic landscape. This reflection illustrates some of the challenges that the WTO faces and provides suggestions for how it can effectively manage the challenges so as to remain relevant and even thrive in the coming years.

II THE CHANGING TIDE

In 1995, the WTO looked as if it would be the dominant international economic institution long into the future. After years of negotiating, the US and the European Union finally agreed on both the framework for the institution and the details of the various agreements. This, in and of itself, was a triumph. The creation of the WTO corrected many of the 'birth defects' of the GATT and provided a solid institutional basis from which the global trade regime could grow.⁷ Notably, the WTO essentially ended the practice of plurilateral agreements, instead requiring that WTO Members agree to all obligations in a 'single undertaking'. There would be no free-riding, and all Members would now have a say in the direction of the organisation. Equally importantly, the WTO's legally-based, binding and enforceable dispute settlement mechanism ensured that Members could no longer evade their obligations by simply refusing to adopt a panel report. A more controversial achievement was the expansion of the agreement beyond goods. The inclusion of services and intellectual property into

⁴ Opened for signature 30 October 1947, 55 UNTS 187 (entered into force 1 January 1948) ('GATT 1947').

⁵ For background on the Doha Round, see Ian Fergusson, 'World Trade Organization Negotiations: The Doha Development Agenda' (Congressional Research Service (CRS) Report, 18 January 2008); Ian Townsend, 'The WTO Doha Development Round: Where Next for World Trade?' (Research Paper No 06/43, House of Commons Library, 21 September 2006); Will Martin and Aaditya Mattoo, 'The Doha Development Agenda: What's on the Table?' (Working Paper No 4672, World Bank Policy Research, 2008).

⁶ Vivien Lou Chen, 'Greenspan Says Crisis May Be "Once in Century" Event', *Bloomberg* (New York, US) 14 September 2009, available from <<http://www.bloomberg.com>>.

⁷ On the 'birth defects', see, eg, John Jackson, 'GATT and the Future of International Trade Institutions' (1992) 8 *Brooklyn Journal of International Law* 11. On the WTO's corrections of the 'birth defects', see Simon Lester and Bryan Mercurio with Arwel Davies and Kara Leitner, *World Trade Law: Text, Materials and Commentary* (2008) 70–86.

the WTO recognised the growing importance of these areas to traders, but perhaps should have served as a warning for the contentious years ahead.

The WTO has had its share of successes (including the accession of China in 2001) and it remains one of the most relevant international organisations, yet overall, it has failed to live up to its initial promise. The WTO is a complicated organisation and organisational development is (excruciatingly) slow, often unwieldy and frequently produces watered-down decisions due to compromise. The reason is a result of the Members themselves, who have failed to unite and agree on how to progress the organisation. The failure to conclude the Doha Round is the most obvious example of how a lack of consensus has impeded institutional reform and progress. However, the breakdown of the Doha Round is not the cause of the WTO's failure, but rather, merely a symptom of deeper systemic issues that plague the WTO. Unless these issues are acknowledged and corrected, the organisation's credibility and relevance will continue to be undermined.

The greatest impediment to the WTO is that Members simply do not agree on the organisation's *raison d'être*, and therefore there is no institutional direction. This is the case for a number of reasons. For instance, while the GATT was initially formed among a small group of like-minded countries, the WTO now comprises 153 Members with widely differing histories, economic fortunes and political systems. Unsurprisingly, Members also have very different institutional views, ideas and opinions. Such heterogenous membership, coupled with the increasing influence of developing countries which accompanied increased membership obligations (another organisational success), has dramatically shifted the power base in the WTO. Thus, while the US and the EU, along with Japan and Canada, dominated the GATT and exerted great power throughout the Uruguay Round, this appears to be no longer the case. Incremental shifts in economic power have given India, Brazil and now China an increasingly powerful voice in the WTO. These countries have not traditionally shared a common platform nor vision, and the structures of their respective societies greatly diverge from those of the traditional powers. The leadership emergence of developing countries would likely be enough to slow the WTO's liberalisation progress, but another perhaps more important impediment is that the traditional powers cannot themselves even agree on the direction of the organisation. Thus, while some Members still view the WTO as a forum for reducing barriers and liberalising trade, others see it as a regulatory agency. Others view the WTO as a development agency, while some even see it as a potential arbiter for all commerce-based disputes. The WTO's mandate cannot include all of these contradictory interpretations.⁸

A related concern is the WTO's consensus-driven decision-making process, whereby all Members must agree (or, more accurately, not disagree) before

⁸ For more detailed analysis of these issues, see generally Bryan Mercurio, 'The WTO and Its Institutional Impediments' (2007) 8 *Melbourne Journal of International Law* 198.

decisions are adopted.⁹ With Members not even capable of agreeing on the organisation's *raison d'être*, the question must be asked whether consensus decision-making is capable of providing serious benefits to Members in challenging (and changing) economic uncertainty.¹⁰ To date, this question has to be answered in the negative. Consensus decision-making has, in part, led to stalled negotiations.¹¹ As a result, Members have chosen to shift the negotiating forum. For this reason, free trade agreements ('FTAs'), which significantly and meaningfully build upon the WTO framework, have flourished.¹² This raises a further associated problem of WTO oversight of FTAs. In order to be WTO-consistent, FTAs must comply with the substantive conditions set out in Article XXIV of the *GATT 1947*.¹³ In practice, however, these rules are flouted and unenforced. The reason for this is simply that while the Committee on Regional Trade Agreements ('CRTA') has the authority to determine the consistency of the FTA with the *GATT 1947*, it fails to exercise its powers due to the need for decisions to be taken by consensus.¹⁴ Thus, in this and countless

⁹ If a decision cannot be reached by consensus, art IX states that 'the matter at issue shall be decided by voting' with a one-country, one-vote rule, but in practice this never occurs. The WTO is a member-driven organisation and Members have proven themselves to be extremely cautious in proceeding without consensus. See *Marrakesh Agreement Establishing the World Trade Organization*, opened for signature 15 April 1994, 1869 UNTS 190 (entered into force 1 January 1995), arts IX (decision-making), X (amendments).

¹⁰ To some, the idea of complete consensus is sacrosanct, and the two fundamental principles of the GATT/WTO should remain: the organisation is 'member-driven', and decisions should not be made other than by the Members; and progress should be made by a 'single undertaking'; that is, nothing is agreed until everything is agreed. For a useful debate on the issues, see World Trade Organization, *WTO Forum Video Debate: The WTO's Decision Making Process — Does It Need to Be Reformed?* (2008) <http://www.wto.org/english/forums_e/debates_e/debate10_e.htm>.

¹¹ See generally Mercurio, above n 8. See also Jeffrey J Schott and Jayashree Watal, 'Decision Making in the WTO' in Jeffrey J Schott (ed), *The WTO after Seattle* (2000); Peter Nørgaard Pederson, 'From the Trenches: The WTO Decision-Making Process and Internal Transparency' (2006) 5 *World Trade Review* 103; Thomas Cottier and Satoko Takenoshita, 'Decision-Making and the Balance of Powers in WTO Negotiations: Towards Supplementary Weighted Voting' in Stefan Griller (ed), *At the Crossroads: The World Trading System and the Doha Round* (2008) 182.

¹² While 124 FTAs were negotiated during the GATT years, over 300 have already been negotiated and notified to the WTO since its inception in 1995. Moreover, 32 agreements are in the late stages of negotiation or finalisation, and are due to come into force upon ratification. Approximately 50 additional FTAs are being negotiated or investigated (such as by the completion of a feasibility study). For more information on FTAs, see Roberto V Fiorentino, Luis Verdeja and Christelle Toqueboeuf, 'The Changing Landscape of Regional Trade Agreements: 2006 Update' (Discussion Paper No 12, World Trade Organization, 2006) 3–4. For detailed analysis of the subject matter contained in bilateral and regional trade agreements, see Simon Lester and Bryan Mercurio (eds), *Bilateral and Regional Trade Agreements: Commentary and Analysis* (2009).

¹³ For analysis of the rules regulating the WTO-consistency of FTAs, see Andrew D Mitchell and Nicolas J S Lockhart, 'Legal Requirements for PTAs under the WTO' in Simon Lester and Bryan Mercurio (eds), *Bilateral and Regional Trade Agreements: Commentary and Analysis* (2009) 81, 81–113.

¹⁴ For political and theoretical reasons, Working Parties established under the provision of *GATT 1947* art XXIV have often disagreed on the compatibility of proposed FTAs and simply declined to make a formal decision. In fact, only one working party ever agreed by consensus on the consistency of a FTA with art XXIV of the *GATT 1947*. For the other 50-plus agreements, the working parties simply did not reach consensus and no further action was taken. For more information, see *Working Party on the Customs Union between the Czech Republic and the Slovak Republic*, WTO Doc No L/7501 (15 July 1994); *GATT 1947*, above n 4 art XXI.

other circumstances, the dispute settlement system is left as the sole institution capable of enforcing the rules and in doing so, to determine the course of the future of the organisation.¹⁵ This will continue as long as the political wing fails to complete its negotiating mandate or designated committee tasks.

III TODAY'S CHALLENGES

It is clear that Members must be resolute and unite in their opposition against protectionist measures that are adopted in reaction to financial uncertainty and global recession. But given the institutional impediments detailed above, is the WTO capable of adjusting to the changing world situation?

Due to the current slowdown in trade and the global recession, the impetus for the WTO should be to consolidate the gains already made during the course of the Doha Round, to quickly resolve remaining pressing issues and to conclude the Round. The result may not be the deepest or most significant trade round ever to be concluded, but it will be a result which will allow Members to push ahead with reform, concentrate on pressing financial and economic issues and reflect upon their vision for the WTO.

The consolidation of gains already agreed upon will reduce bound-duty rates and could facilitate rejuvenated trade flows. Moreover, and perhaps more importantly in the current economic climate, such a move would signal resistance to protectionist pressures and further limit the maximum tariff rates which can be applied. Quickly resolving the pressing issues in the Doha Round will remain difficult to achieve as deep divides remain in almost all areas, particularly in the high priority areas of agriculture and non-agricultural market access ('NAMA').¹⁶ Efforts should also be made to quickly conclude negotiations on trade remedies, despite the highly divergent opinions that are presently stalling negotiations. Trade remedies take on an increased level of importance in times of economic uncertainty and have the potential to be abused for protectionist purposes. The current rules need to be modified in order to remain effective into the future. However, many of the issues being discussed in

¹⁵ Examples of this can be seen in the controversies resulting from Panel and Appellate Body decisions involving the environment (*US—Restrictions on Imports of Tuna*, GATT Doc DS21/R (3 September 1991) (Report of the Panel)), the submission of amicus curiae briefs (*European Communities—Measures Affecting Asbestos and Asbestos-Containing Products*, WTO Doc WT/DS135/R (18 September 2000) (Report of the Panel) and in anti-dumping cases (*US—Continued Existence and Application of Zeroing Methodology*, WTO Doc WT/DS350/AB/R, AB-2008-11 (4 February 2009) (Report of the Appellate Body)), among others. Panels and the Appellate Body have also weighed in on the interpretation of art XXIV, despite 60 years of inaction by the CRTA and its GATT-era predecessor.

¹⁶ For information on the agriculture negotiations, see Charles Hanrahan and Randy Schnepf, 'WTO Doha Round: The Agricultural Negotiations' (Congressional Research Service Report to Congress, 22 January 2007). For information on the NAMA negotiations, see World Trade Organization, *A Simple Guide — NAMA Negotiations* (2008) <http://www.wto.org/english/tratop_e/markacc_e/nama_negotiations_e.htm>. For analysis of both topics, see David Laborde, Will Martin and Dominique van der Mensbrugge, 'Implications of the 2008 Doha Draft Agricultural and NAMA Market Access Modalities for Developing Countries' (Paper presented at the 11th Annual Conference on Global Economic Analysis, Helsinki, Finland, 13 June 2008). For more analysis of the negotiations from a developing country perspective, see Hakim Ben Hammouda, Stephen N Karingi and Mustapha Sadni Jallab, 'Non-Agricultural Market Access (NAMA) Negotiations in the WTO: Modalities for a Positive Post Hong Kong African Agenda' (Working Paper No 34, African Trade Policy Centre, March 2006).

these areas are highly contentious. For instance, while many aspects of the *Anti-Dumping Agreement*¹⁷ are being discussed, the use of ‘zeroing’ in calculating anti-dumping duties is particularly divisive.¹⁸ Despite the fact that the Appellate Body has consistently ruled that the practice of ‘zeroing’ violates the *Anti-Dumping Agreement*, the issue remains contentious, particularly due to the US’ claim that the rulings have been based on inappropriate interpretations of the Agreement.¹⁹ The US additionally argues that the Appellate Body has overstepped its authority in delivering such rulings. The Negotiating Group on Rules has discussed the issue as part of the Doha Round, but progress has stalled. In fact, debate raged when the Committee Chair, Guillermo Valles Galmés of Uruguay, circulated to Members for comment, his draft consolidated text on 30 November 2007, which would have explicitly permitted ‘zeroing’ in limited circumstances. Owing to many objections, the language was removed in the latest draft, with Ambassador Valles recently stating:

Delegations remain profoundly divided on this issue. Positions range from insistence on a total prohibition of zeroing irrespective of the comparison methodology used and in respect of all proceedings to a demand that zeroing be specifically authorized in all contexts.²⁰

While some delegations applauded the move,²¹ the office of the US Trade Representative (‘USTR’) stated it was ‘deeply disappointed’ over the deletion.²² More worrying, the USTR stated: ‘As we have said repeatedly, the United States cannot envision an outcome in the Rules negotiations that fails to adequately address this critical issue’.²³

Another pressing issue in this time of economic uncertainty is the modification of the *Subsidies and Countervailing Measures Agreement*.²⁴ Members are discussing amendments to many areas of the agreement, including prohibited (red light) subsidies, actionable (amber light) subsidies and export

¹⁷ *Marrakesh Agreement*, above n 9, annex 1A (*Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*) 1868 UNTS 201 (‘*Anti-Dumping Agreement*’).

¹⁸ When determining the extent to which imports are being exported at artificially low prices, the US ‘zero-out’ cases in which goods are sold at higher prices in the US than in the exporting country. Thus, only cases where prices in the US are lower are considered, while goods sold at higher prices are ignored. The practice is often criticised for artificially inflating ‘dumping margins’ and distorting anti-dumping duties on imports.

¹⁹ More specifically, the US argues that nothing in the *Anti-Dumping Agreement* specifies that ‘non-dumped comparisons’ must be ‘offset’ when in the calculation of dumping margins.

²⁰ WTO Negotiation Group on Rules, *New Draft Consolidated Chair Text of the AD and SCM Agreements*, WTO Doc TN/RL/W/236 (19 December 2008) [2.4.2] (and following text).

²¹ See, eg, Shri Jairam Ramesh, Government of India, ‘Anti-Dumping Duties’ (Press Release, 23 December 2008) <<http://pib.nic.in/release/release.asp?relid=46093>>.

²² International Centre for Trade and Sustainable Development, ‘New WTO Rules Text Brings Old Rifts into Focus’, 13(1) *Bridges Weekly Trade News Digest* 1 (14 January 2009) <<http://ictsd.net/i/news/bridgesweekly/37803>>.

²³ *Ibid.*

²⁴ *Marrakesh Agreement*, above n 9, annex 1A (*Agreement on Subsidies and Countervailing Measures*) 1869 UNTS 14 (‘*SCM*’).

credits.²⁵ A particularly difficult sub-topic has been the negotiations regarding the strengthening of disciplines on subsidies in the fisheries sector. Despite the shared concerns of protecting fishing stocks from overfishing and depletion, Members have been unable to agree on a framework to reach consensus on definitional issues, as well as appropriate disciplines.

Given the large-scale stimulus packages delivered by numerous governments coupled with the recent resurgence in global environmental concern, it would also seem appropriate for Members to revise negotiations on permitted (green light) subsidies with the aim of encouraging research and development into environmentally-friendly technologies and stimulating regional development.²⁶ Another important topical issue, which should be addressed during the negotiations, as opposed to dispute settlement, is whether currency manipulation can be deemed to be a subsidy under the *SCM*.²⁷

If these issues can be resolved, the Doha Round could be concluded. Modest gains could be made in agriculture and NAMA issues, trade remedy rules could be improved and the rules on subsidies could be better defined and updated to reflect current economic realities.²⁸ Such a result would demonstrate the importance of maintaining a committed rules-based approach to trade even during challenging economic times. It would also then allow Members to take stock of the situation, and reflect upon the benefits and challenges to the WTO without the pressure of completing a Round. In the longer term, Members would then have the opportunity to address the systemic issues that are currently hampering the organisation: what are the actual purpose, aims and objectives of the WTO (that is, what is its *raison d'être*); is consensus decision-making still the most suitable approach; is the single undertaking approach still the most suitable approach; should the organisation embrace the plurilateral model; and can, and

²⁵ For background information on the *SCM* and more information on these negotiations, see Debra P Steger, 'The WTO Doha Round Negotiations on Subsidies and Countervailing Measures: Issues for Negotiators' (Speech delivered at the Symposium on Economic Restructuring in Korea in Light of the Doha Development Round Negotiations on Rules, Seoul, South Korea, 7 May 2003). For progress made as part of the 'July 2008 Package', see World Trade Organization, *Doha Development Agenda — The July 2008 Package* (2008) <http://trade.wto.org/english/tratop_e/dda_e/meet08_e.htm>.

²⁶ For more information on 'green light' subsidies, see Hyung-Jin Kim, 'Reflections on the Green Light Subsidy for Environmental Purposes' (1999) 33(3) *Journal of World Trade* 167.

²⁷ For analysis, see Robert W Staiger and Alan O Sykes, "'Currency Manipulation" and World Trade' (Working Paper No 363, Stanford Law and Economics Olin, 2008); Aaditya Mattoo and Arvind Subramanian, 'Currency Undervaluation and Sovereign Wealth Funds: A New Role for the World Trade Organization' (Working Paper No 08-2, Peterson Institute for International Economics, January 2008); Jonathan E Sanford, 'Currency Manipulation: The IMF and WTO' (CRS Report, 8 May 2008) <<http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-10703:1>>. For issues of currency manipulation, the IMF and China, see Morris Goldstein and Nicholas R Lardy (eds), *Debating China's Exchange Rate Policy* (2008). See especially Michael Mussa, 'IMF Surveillance over China's Exchange Rate Policy' in Morris Goldstein and Nicholas R Lardy (eds), *Debating China's Exchange Rate Policy* (2008) 279.

²⁸ See *Marakesh Agreement*, above n 9, annex 1A (*General Agreement on Trade in Services*) 1867 UNTS 183 ('*GATS*'), annex 1C (*Agreement on Trade-Related Aspects of Intellectual Property Rights*) 1867 UNTS 299 ('*TRIPS*'). The exclusion of other negotiating topics (such as *GATS* (services) and *TRIPS* (intellectual property)) is not meant to imply that these topics are not important or even priority issues, but only that negotiations in these areas are either completely deadlocked or not at an advanced enough state to include in a scaled down Round capable of being concluded quickly.

even should, the system better control the proliferation of FTAs? Several alternative proposals have been posed, and while some are obviously flawed and none are without potential problems, serious engagement is warranted. These governance issues must eventually be addressed, but should not be considered under the time-pressure of a negotiating round.

In the long term, the WTO must also address several other issues which are relevant to today's world. These issues include environment and labour, competition, investment and energy markets.²⁹ This is not to say that it is necessarily appropriate or wise for the WTO to include these topics into its mandate, but only that serious discussion and debate must take place in order to determine whether (and in what form) the WTO should involve itself with these issues.

IV CONCLUSION

Concluding the Doha Round and further progressing the WTO agenda cannot save the world from recession, but it can help prevent the world from sliding into a depression. In this regard, the institutional irrelevancy of the WTO is worrisome for a number of reasons. The WTO serves as a caution against rising barriers. Rising trade barriers between 1913 and 1945 directly led to 'beggar thy neighbour' protectionism, and was arguably linked to the Depression and wars. The reduction in barriers to trade has been remarkable, and has played a significant role in raising the standards of living in almost all corners of the globe.³⁰ Tariff reductions have unquestionably played a large role, but the significant progress made on prohibiting or curtailing non-tariff barriers must also be appreciated. It would be a shame — and ironic — if all of the work undertaken over the last 60 years is undone by the impetus to create jobs and stimulate economic growth in the current economic crisis.³¹ As nations craft and implement economic stimulus packages, the lessons of history should not be forgotten.

Members must show faith in the WTO by providing the political impetus necessary to conclude the Doha Round. The Round should focus on the

²⁹ A plethora of articles and books have been written on the benefits and detriments of the inclusion of these issues in the WTO. For an interesting analysis, see Keith Maskus, 'Regulatory Standards in the WTO' (Working Paper No 00-1, Peterson Institute for International Economics, January 2000).

³⁰ See, eg, Milton Friedman and Rose Friedman, 'The Case for Free Trade' (1997) 4 *Hoover Digest*; Mike Moore, *A World without Walls: Freedom, Development, Free Trade and Global Governance* (2003); Jagdish Bhagwati, *In Defence of Globalization* (2004); Arvind Panagariya, 'Miracles and Debacles: In Defence of Trade Openness' (2004) 27 *World Economy* 1149.

³¹ Several commentators have already pointed out the worrying similarities between the past and the present. See, eg, Jagdish Bhagwati, 'Obama Must Fight the Protectionist Virus', *Financial Times* (London, UK) 4 February 2009; Rosemary Righter, 'Obama's Lethal Game of Beggar-Thy-Neighbour', *The Times Online*, (UK) 30 January 2009 <www.timesonline.co.uk/tol/comment/columnists/rosemary_righter/article5613759.ece>; Burton G Malkiel, 'Congress Wants a Trade War', *The Wall Street Journal* (New York, US) 5 February 2009, A13; Daniel Drezner, 'Fiscal Disconnect: How Creeping Protectionism Could Undermine Recovery Plans', *Newsweek* (New York, US) 30 December 2008 <<http://www.newsweek.com/id/177258>>. While the WTO contains a significant amount of 'space', which allows for increased protectionism, close scrutiny of most nations' stimulus packages reveal several measures that are arguably incompatible with the WTO obligations undertaken by those nations.

reduction of agricultural and NAMA issues, as well as rules regarding trade remedies and subsidies. This will inevitably require concessions on the part of all Members as well as agreement to defer certain other contentious issues to a later date. Both concessions and consensus are needed in order to achieve a result and allow Members to concentrate on the pressing issues of contemporary relevance to the world economy. In the long term, Members must reflect upon systemic issues and discuss ways to improve the operational aspects of the organisation. Once this has been accomplished, focus can again shift to liberalisation efforts and to addressing whether the WTO is the appropriate forum for negotiating agreements on issues currently not within the organisation's mandate. Whether the WTO can complete the Doha Round and subsequently address its institutional shortcomings and other contemporary issues likely depends on the extent of the political will and courage of the major trading nations to resist domestic protectionist pressures, while simultaneously maintaining their confidence in the long-term benefits of free trade and the importance of the WTO.