



Sprinting during a Marathon: Why the WTO ministerial failed in July 2008

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Abstract

The WTO's nine day sprint in July 2008 was an attempt to break the logjam on "modalities" for agriculture and NAMA in the marathon Doha Round negotiations. All that observers can know for certain is that the parties did not agree, but understanding the failure is an essential prelude to any attempt to relaunch the Round. This paper is a counterfactual analysis of the various explanations that have been offered for the failure. I consider factors exogenous to the negotiation process, such as the macroeconomic context; and factors endogenous to the process such as the timing and level of participation in the meeting, and the nature of the issues under discussion. I conclude that sprinting during a marathon is unwise. The London G-20 Summit commitment to a balanced outcome is achievable, but assembling a package with so many issues involving 153 Members takes time and patience.

This paper draws on reporting from Inside U.S. Trade, Bridges, and the Financial Times, among many other media sources; all the reports are on file with the author, but are not cited for reasons of space. The analysis also rests on confidential interviews with senior members of a wide range of delegations and officials in the WTO secretariat, as well as on secretariat press briefings. The author is grateful for the comments of Trineesh Biswas and Patrick Messerlin; and for the support of this project the Groupe d'Économie Mondiale, SciencesPo. Visits to Geneva were generously supported by the Social Sciences and Humanities Research Council of Canada.

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Introduction

Completing a trade round is like running a marathon. After nearly seven years, in July 2008 the Doha Round of multilateral trade negotiations in the World Trade Organization (WTO) was still not finished. Pascal Lamy, the Director-General, invited selected ministers to come to Geneva for an informal ministerial meeting intended to agree on the core “modalities” or blueprint for finishing the round. Time was running out for the Administration of U.S. President George Bush. American approval is not sufficient for an outcome, but it is essential. If the core modalities could not be achieved with the existing U.S. negotiating team, the negotiations were likely to lose at least a year while waiting for a new one to be put in place. Despite trying for nine days, a GATT/WTO record for ministers, the sprint failed. The Doha Round did not have modalities when the Bush Administration left office. Many of the toughest issues were unresolved, even if roughly two dozen issues were either closed, or could have been as part of an overall modalities package.

With Doha Round seemingly adrift, the global Great Recession that began in the second half of 2008 led to fears that the world may face a wave of protectionism that the WTO would be powerless to prevent. Some prominent economists called for a formal “standstill” negotiated outside the WTO. Calls for a standstill ignore the sad history of such pious commitments and also assume implausibly that the ministers who could not agree to complete the Doha Round after all the years of effort could agree on the terms of a standstill on the same issues in a few weeks. Others lamented the inaction of trade ministers on the vague commitments of G-20 leaders and finance ministers in Washington in November 2008. Still others claimed that the Doha Round had the wrong agenda, or was an irrelevant waste of time, and that new agreements should be negotiated on a piecemeal basis. Such pessimism is unwarranted.

This paper is not an analysis of the potential value of a Doha Round outcome. I note, however, that analysts think that a substantial agreement is within reach, one that in agriculture might exceed the Uruguay Round both in improved market access and in limits on domestic support (Martin and Anderson, 2008: 14). In non-agricultural market access, or trade in goods—known as NAMA—cuts in *bound* rates, whether or not it implies new market access by reducing *applied* rates, is well worth having for the certainty alone (Messerlin, 2008). The G-20 London Summit in April 2009 rightly made a commitment to achieving a balanced outcome “building on the progress already made, including with regard to modalities”, but that remains a challenging objective. This paper uses a counterfactual analysis of the factors that might be part of an explanation for the July 2008 failure as a window into the prospects for the Doha Round. Before outlining the structure of the argument, I first describe the central events of July 2008.

Preamble: the July sprint

The basic story is simple. The July 2008 ministerial was planned as part of a “horizontal process”, bringing together the pillars of the Doha Round negotiations. The keystone was establishing modalities for agriculture and NAMA, yoked together by the divergent needs of Members and by paragraph 24 of the 2005 Hong Kong declaration. The WTO defines *modalities* as the way or method of doing something—in this case, how to cut tariffs, enlarge quotas and reduce subsidies and support. The modalities are therefore a set of blueprints for putting the deal together. The tactical plan for the ministerial was to get acceptance from the

ministers representing approximately 30 Members in the “Green Room” of the idea that a smaller group (dubbed the G-7) could try to craft a package on the core outstanding issues in agriculture and NAMA. If the G-7 could then maintain their unity on a package that they drafted, it would be hard for individual Members in the Green Room to negotiate with the G-7 as a group.

After two days of discussion, including one-on-one meetings (“confessionals” in WTO jargon) with each of the seven, on the evening of July 24, the Director-General did what a Chairperson often does—he suggested where he thought the possible compromises might be on the key issues in contention, usually picking middle numbers. This “package”, eventually tabled in the Green Room on Friday July 25, then outlined to the informal meeting of the plenary Trade Negotiations Committee (TNC) on July 26, was drafted in consultation with the Chairpersons of the agriculture and NAMA negotiations and the Chairperson of the General Council.¹ The package was skeletal—it had a small core, with some major issues left to one side. Nobody much liked it. If the Director-General had respected each of the seven’s red lines from the confessionals, no deal was possible. He therefore took all participants well beyond where they thought they would be based partly on his sense of the discussion among the seven, but also on his sense of how the impasse could be resolved. When the deal was presented in the Green Room, two the seven stressed the importance of it as a package and essentially told fellow ministers that changes could not be accommodated.

The hope on the July 26/27 weekend had been to have enough convergence that the agriculture and NAMA Chairpersons could issue new texts on Monday July 28 based on the July 25 package. Although the G-7 struggled on for two more nights, the deal really fell apart on Sunday when India went on the offensive with the G-33, with explicit Chinese support, encouraging them to reject key aspects of the package. The American statement to the TNC on July 28 was uncharacteristically angry. “The United States was one of the countries that swallowed hard and accepted the package,” David Shark said, “despite the fact that it contained several elements that were extremely disappointing—and painful—for us to accept. . . . Unfortunately, one major emerging economy (India) immediately rejected the package, and subsequently another major emerging economy (China) walked away from it. . . . Even more damaging to the Round, these two countries have actively enlisted the support of poorer developing countries for these positions.”² The Americans had expected problems with India, but they had apparently hoped for Chinese support in isolating India. Even with Chinese support, it is not self-evident that India could have been bullied into submission. Once the G-33 supported by a great many other developing countries expressed public support for the India position, Chinese support for the package became impossible, and the ministerial collapsed.

¹ The July 25 package is found in the Appendix 2. Although often called the Lamy text, it was in no sense equivalent to the “Dunkel text” of 1991 (GATT, 1991), which was a complete draft final act for the whole Uruguay Round.

² The Americans may also have been unhappy with China because of the failure of their bilateral talks on the weekend aimed at ensuring that if the U.S. accepted the Chairperson’s proposals on cotton support, China would not limit access to its market by designating cotton as a “special” product (Blustein, 2008).

Problem for the paper: Competing accounts of the breakdown

The underlying question this paper seeks to answer is not so much why the ministerial failed, but whether it could have succeeded. Explaining why 153 countries did NOT do something, however, is even harder than explaining why they did.³ Consensus in WTO explicitly requires only that nobody present objects. Since public reasons are neither required nor given, the challenge for analysts is that we know more about who was complaining loudly than we do about who by being silent was prepared to agree. Until the package is written down and nobody objects, one cannot be sure whether convergence has been reached. A determinant answer of how close Members were to agreement in July 2008 is therefore impossible, yet explanations abound.

The conventional story about the ministerial is that the proposed “special safeguard mechanism” (SSM) for developing countries in agriculture, and sectoral negotiations in NAMA, were the main obstacles to overall agreement, and that the split on both was essentially between the United States and India. Neither India nor the U.S. stood alone on either issue, however, and these two issues were not the only obstacles to agreement, even if roughly two dozen issues were either closed, or could have been as part of an overall modalities package (see Appendix 2).⁴ This story that all would have been well had those countries agreed on those issues is a *counterfactual* assumption.

All analysts of the WTO work with an implicit mental model of how Members could reach agreements. When the process seems too slow, or fails, analysts attribute the problem to one part of their model: if the secretariat or Members could do that thing differently, then the obstacles could be overcome. This reasoning is *counterfactual*.

Box 1 Definition of counterfactual

A counterfactual is defined either as something that has not happened but might happen under different conditions; or as something that is contrary to fact.

Speculative thought experiments based on counterfactual analysis can suggest possible causal connections, but proof is not possible. In this paper I consider a number of factors that *may* have affected the outcome. I call them counterfactuals and not simply explanations because in each case analysts might think that change is or was possible; that if that aspect had been

³ It is more straightforward, for example, to explain a ministerial that succeeds—it can be compared to a ministerial that was deadlocked, with the differential outcome attributed to variation on factors that theory suggests ought to be explanatory (Odell, 2009). Since rounds of WTO negotiations are cumulative, that method is less helpful in explaining a deadlock that follows a success.

⁴ The estimates are based in part on the two August reports from the agriculture and NAMA Chairpersons, which give a sense of what they thought could be taken as having been agreed in July 2008, and on the December 6 reports prepared by the two Chairpersons, which add precision to the August assessment based on their extensive consultations during the fall. The NAMA Chairperson’s August report is widely understood as a fair reflection of the discussion that had taken place, even though it angered the Americans. In paragraph 9 he changed the reference to participation “likely to achieve critical mass” to participation sufficient to make sectoral negotiations “viable”. This compromise seems to have been discussed among officials, but the Americans had not shown it to their minister, and it certainly had not been agreed. See (WTO, 2008e; WTO, 2008f; WTO, 2008d; WTO, 2008h).

different, contrary to the apparent facts, then the outcome could have been different.⁵ What might have happened in July 2008 if certain specified factors had been different? If those changes happen now, what kinds of outcomes might be possible in the next stages of the Doha Round?

My analytic strategy, therefore, is to try to identify the counterfactual assumptions inherent in the accounts of the July 2008 breakdown, and ones suggested by the literature on WTO negotiations. A number of counterfactuals will emerge in the discussion—they are listed in Table 3 below. They fall in two groups. *Exogenous* factors include structural conditions that shape the circumstances in which actors find themselves. Did the general political, security, or economic context influence the chances for agreement or breakdown? *Endogenous* factors include the institutions and practices of the WTO. If the outcome is not explained by the prior interests of the participants, does something in the negotiation process explain the outcome?

In the first part of the paper, I discuss process factors, including ones suggested by the negotiation analysis literature. I consider the role of the chair or mediator, of coalitions, and whether Members trusted each other enough to conclude. Was it timely to engage ministers in a horizontal process? Was the configuration of meetings, or the package of issues appropriate? In the second part, I discuss the significance of the thing being negotiated—the notion of “modalities”, which may be an obstacle in themselves. I am more interested in what happened in Geneva, but in Part 3, I consider what ministers brought with them when they came. If domestic politics were different in the U.S. or the EU, would a deal have been reached? Did the financial crisis and high commodity prices either hurt or improve prospects? Perhaps the players did not have good outside options, or the alternatives to agreement were better than the costs of consensus.

No model determines what weight to give all these factors. My own conclusion is that most of them were not new to the WTO in July 2008, and even in combination were not enough to cause the breakdown of the negotiations. The ministerial was an attempt to sprint during a marathon, and it failed for that reason: negotiators had more work to do before ministers could close the deal. A beast as cumbersome as the WTO cannot negotiate on the fly. Elements of a package have to be assembled bit by bit. The role for ministers is to bless the assemblage.

⁵ Thought experiments begin with what we know about the world, but then imagine a different possible outcome through analytic reasoning not empirical observation (Horowitz and Massey, 1991). Such a strategy is risky if appropriate criteria are not used (Tetlock and Belkin, 1996: 18). I ask if each counterfactual is consistent with established historical facts, especially with respect to past rounds or ministerial meetings. One should not argue that all would have been well in the Doha Round had some aspect been done differently unless the GATT/WTO historical record, or generally accepted theories of the trading system, provides some grounds for thinking that it could have been done in the way imagined.

Part 1 The Doha Round process as a problem

The WTO treaty, the Doha ministerial declaration, and deeply embedded institutional practices govern how the WTO may formally make decisions, but getting the right people in the room with an appropriate agenda remains an art not a science. The first set of counterfactuals, therefore, concerns the process.

Table 1 is a timeline of the main events. It helps to know that negotiating groups always meet at the level of officials (Chief Negotiators or technical experts from capitals and/or Geneva-based officials) but representation in the TNC and the General Council can be at ministerial level if a Member wishes. The July 2008 meetings had no formal status in this schema. The Director-General simply invited selected ministers to come to Geneva for “consultations”. The results would have had to be accepted by the full membership in an appropriate forum.

Table 1 Timeline for the July 2008 ministerial

April 17	informal TNC: Director-General announces the start of a “horizontal” process beginning with senior officials (see Table 2)
June 27	informal TNC: Director-General announces ministers will meet in July
July 21 (Mon)	Ministerial begins with an informal TNC followed by the first Green Room
July 22	informal TNC
July 23	informal TNC: Director-General reports on Green Room consultations; first meeting of the “smaller group”, soon known as G-7
July 24	Informal TNC
July 25	Informal TNC; G-7 “package” circulated in Green Room
July 26 (Saturday)	informal TNC: Director-General reports publicly on the proposed G-7 compromise; Services Signalling Conference
July 27	Intensive informal meetings continue
July 28	informal TNC: Director-General reports on negotiations on issues not in the G-7 package
July 29	informal TNC: Director-General reports on the collapse of talks in the G-7
August	Agriculture and NAMA Chairpersons issue reports on their understanding of the July 2008 discussions

The process the Director-General used in July 2008, the ninth Doha Round ministerial (see the list in Appendix 1), was similar to the one used first in July 2004, where intensive work among a group of ministers in the Green Room and the General Council ended with the establishment of the framework for the negotiations, an innovative method for completing the unfinished business of the 2003 Cancún Ministerial. It was used less successfully in June 2006, when the Director-General invited ministers representing all groups of Members to Geneva for informal discussions aimed at reaching agreements on modalities in the agriculture and NAMA negotiations. When the 2006 meetings failed, he subsequently “suspended” negotiations. Only in late 2006 did he give an official green light for the Chairpersons to resume informal consultations. Their reports in June 2007 were discussed by the so-called G-4 (U.S., EU, India, and Brazil) at their Potsdam meeting in early July. As it entered its seventh year in fall 2007, outsiders were declaring the Doha Round dead after the failure at Potsdam, yet the spectacular break up at that meeting reinvigorated the multilateral

process in Geneva, especially in the agriculture negotiations, where many Members described the fall of 2007 as the best period of negotiations they had had since the end of the Uruguay Round.

Limits to chair-led negotiations

An eventual agreement on modalities will take the form of texts formally approved either by the Ministerial Conference, if one were scheduled, or by the General Council (chaired in 2008 by Australian Ambassador Bruce Gosper), acting on the recommendation of the Trade Negotiations Committee (the TNC, chaired by the Director-General). The TNC would only make such a recommendation on the basis of reports from the Chairpersons of the Committee on Agriculture—Special Session (in July 2008, New Zealand Ambassador Crawford Falconer) and the Negotiating Group on Non-Agricultural Market Access, known as NAMA (in July 2008, Canadian Ambassador Don Stephenson).

Members are touchy about how Doha Round Chairpersons put their texts together. The Director-General and negotiating group Chairpersons are only facilitators, a role stressed in the agreement at the outset on the organization of the Doha Round (WTO, 2002). Members frequently reiterate the importance they attach to a “bottom-up” process, meaning that content had to come from the Members, not from a Chairperson trying to guess what compromises might be acceptable. Chairpersons now have little scope for the creative application of the “formulation tactic” of preparing an informal SNT to stimulate a move toward consensus.⁶ And yet Chairpersons have to draft something: without a text on the table, and not realizing that support is limited, Members can retain ideas that have no hope of success. And without an integrated (horizontal) text, assessing the overall balance will remain difficult.

Negotiations led by the Chairpersons of each negotiating group could not address the question of the relation between each area. Many Members thought that what would be needed for an appropriate high-level discussion in the General Council, perhaps at its December 2007 meeting, would be papers from the Chairpersons in each of the pillars of the negotiations, including services, Rules, environment, trade facilitation, and intellectual property. The idea of having a full set of papers faded in the light of negotiation difficulties. The services Chairperson (Mexican Ambassador Fernando de Mateo y Venturini) was unable to issue a report until May 2008. The Rules Chairperson (Uruguayan Ambassador Guillermo Valles Galmés) did issue a report in November 2007 (WTO, 2007b), but it provoked intense criticism for a supposed lack of balance.

The first agriculture paper was drafted in 2003 by the negotiating group Chairperson. Subsequent drafts were prepared in 2006 and 2007. The NAMA Chairpersons had also prepared papers for the TNC, notably in preparation for Hong Kong, that reported on the state of play in the negotiations without attempting to draft legal language. The first attempt at draft NAMA modalities, therefore, was the Chairperson’s text of July 2007, which made many delegations angry. Delegations generally accept that the task of the agriculture Chairperson was easier because the July Framework of 2004 (WTO, 2004), gave him many

⁶ On the evolution of a single negotiating text in the Law of the Sea negotiations see (Buzan, 1981). On its use in the WTO, see (Odell, 2005).

more “moving parts” to work with in trying to find a balance between Members’ interests. The July 2008 agriculture and NAMA texts that were the basis for discussion among ministers were the third revisions prepared in 2008 (WTO, 2008g; WTO, 2008a). Both were comprehensive, in that all issues were covered, but neither report was a complete draft proposal for final legal language in its domain. And they had not been considered together as part of a package.

In early 2008 the Director-General began to muse about a “horizontal process” at ministerial level that might knit the pillars together, since the chair-led process in each negotiating group was running out of steam. NAMA in particular had not engaged senior officials from capitals. A horizontal process would be a way to change the mediator, by bringing in the Director-General who has a different mandate and can use the Single Undertaking to propose trade-offs across negotiating groups. Given the risks, and the disasters of the G-4 interventions, Members were hesitant to have the Director-General engaging with ministers prematurely. Yet without a horizontal process, Members could not get to convergence because some tradeoffs could only be made across pillars. The fine judgement, on which *counterfactual* analysis is possible, was deciding when the chair-led process in each negotiating group had reached the point that further results could not be expected, because it was well understood that once the horizontal process was announced, positions would begin to harden as Members would be waiting for ministers. The other fine judgement was deciding which issues had to be in the horizontal phase.

Agenda considerations

When the WTO Ministerial Conference in Doha in 2001 adopted the “Doha Development Agenda”, it launched an integrated “work program” (now known as the Doha Round) in nine broad areas with the understanding that “the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking.” The key intermediate step was envisaged from the start as getting “modalities for further commitments” in two selected areas. The Hong Kong ministerial in 2005 complicated this objective with the deeply ambiguous instruction to negotiators in paragraph 24 of the declaration “to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA.” Modalities for those areas would have to be achieved together, and the level of ambition in each would be dependent on the other.

After extensive consultations with senior officials, some ministers, and ambassadors in the Green Room, when the Director-General announced the start of the horizontal process in April 2008, he said that the substantive objective would be to prepare the formal establishment of modalities in agriculture and NAMA and to provide sufficient reassurance that other issues were also advancing within the Single Undertaking. This horizontal process was intended to start at senior official level, in order to prepare properly for ministerial involvement at a later unspecified stage. Lamy described the issues for the horizontal process in three tiers, as shown in Table 2.

The most important task in establishing the modalities called for in the Doha declaration was finding the balance between agriculture and NAMA, the first tier in Table 2. For some Members, however, the overall balance cannot be achieved without new market access in services and strengthened intellectual property protection. The EU and Switzerland, for example, see more protection for “geographic indications” (GI) on food products as balancing more market access in agriculture.

Other Members were concerned that without the improvements under negotiation in Rules, any further liberalization might not be worth much. On antidumping, the vast majority of Members who wanted the “zeroing” methodology eliminated thought the Chairperson’s November text was too accommodating of the American position. (The Brazilian ambassador was said to have complained about a text applying to a vast minority of Members.) The proposed ban on fisheries subsidies was also controversial. Meetings of the negotiating group over the winter failed to narrow the differences, yet many Members thought that the issues should be part of the horizontal phase for eventual resolution by ministers. India in particular wanted fisheries subsidies discussed, presumably to ensure some ministerial agreement that they could continue to subsidize commercial fishermen on “development” grounds.

Table 2 Establishment of Modalities: the July 2008 Agenda tiers

Issues	Proposed horizontal status
1. Agriculture, NAMA	Only ministers can agree on the modalities, and the two issues had to be considered together because of Paragraph 24 of the Hong Kong declaration
2. Services Intellectual Property Rules	Negotiations not ripe, but “signals” from ministers would be useful Proponents want to link the GI Register, the TRIPS/CBD relationship, and GI Extension as part of the Single Undertaking (WTO, 2008b); the Director-General thinks more consultations with the opponents are needed first Divergence on antidumping methodology and fisheries subsidies remained wide; no consensus that Rules necessary for the establishment of modalities
3. Environment, Trade Facilitation, Dispute Settlement, Development	Negotiations on track for inclusion in an eventual Single Undertaking; agreement that these issues are not necessary for the establishment of modalities

The problem for the Director-General in gaining agreement on the agenda for the horizontal process was two-fold. First, ministerial time is limited, especially with regard to the time they need to be briefed on complex issues. It was essential to address agriculture and NAMA, because without a decision on those modalities, negotiations could not proceed to the drafting of Schedules, the actual basis for conclusion of a round. He hoped, therefore, that other issues could wait their turn. Second, none of the other issues were ripe for ministerial decisions on legal text, nor were such decisions needed at that stage in order to allow negotiations on those issues to conclude at the same time as agriculture and NAMA.

Nevertheless, on services, the Director-General conceded after months of pressure that a ministerial “signaling conference” attended by Members participating in the plurilateral negotiations could provide assurance that market access would be forthcoming. And on Rules, in response to pressure from delegations, in May the Chairperson issued a consolidation of negotiation proposals, but refused to issue new draft legal language because the divergences revealed by his November draft were still too large (WTO, 2008k). That position was not sustainable in light of the pressure to include Rules in the horizontal phase, yet the gaps were not yet susceptible to being closed by ministers, even if time were available. In a July 2008 report to the TNC just before the ministerial, the Chairperson

promised that he would circulate new draft texts after modalities had been achieved in time for a September meeting of the negotiating group (WTO, 2008i).

The Director-General's determination to avoid a divisive discussion of intellectual property could not withstand the pressure from a large number of Members in the coalition supporting the linkage of the three issues, yet the divides were long-standing and deeply entrenched. Without some convergence among the Members concerned, allowing discussion of the issues among ministers would be fatal. It was even difficult for the secretariat to run a consultation in the absence of any middle ground. His solution in July 2008 was to push the consultations that had been going on for years to a side table chaired by Norwegian Foreign Affairs Minister Jonas Gahr Støre. As Bridges dryly observed, having mediated peace talks in Sri Lanka and facilitated dialogue between the Israelis and the Palestinians, Støre might be able to help Members bridge their gaps on intellectual property. He could not. When Støre reported on his consultations to the informal TNC at the end of July 2008, it was clear that these issues depend on what happens in other subjects.

Everybody agreed on the issues that must be dealt with in July 2008 and on the ones that could wait. The disagreement on which *counterfactual* analysis is possible was on whether the three issues in the middle should have been kept off the table. The commitment to the Single Undertaking ought to have given Members confidence that all issues must be addressed before the round could conclude. It is one thing to assert for example that fish subsidies would have to be part of the final Single Undertaking; it is another to have confidence at the intermediate stage that the issue would still be there at the end; and something else again to be able to reassure domestic lobbies that their issues would be addressed. More leverage is available in negotiations at some moments than at others. Many members judged that that moment was when agriculture and NAMA modalities would be decided. In his reports to the TNC on July 23, 26 and 28, the Director-General mentioned at least 32 discrete topics under discussion among ministers or senior officials (see Appendix 2), which some participants argued was too many. That raises yet another supposed problem in the process.

Complexity, critical mass and the Single Undertaking

The Director-General reverted to a familiar image in responding to the breakdown, referring to Doha as a "cathedral", whose curlicues of complexity rendered it magnificent but difficult to complete, according to the Financial Times. "First you have the vague idea for a cathedral, then plans for the cathedral, then you have to start adding chapels everywhere," he said. "The fundamental reality is that it has become too complex." The United States Trade Representative echoed him, saying that "It may be that...the complexity of the cathedral that was built for the Doha round was its own worst enemy, was its own source of demise... I suspect that there has never in history been an international negotiation as complex as this one." When the negotiations broke down, many people (but especially Americans) mused that "critical mass" negotiations would be better. What they imply is a *counterfactual*, that the Single Undertaking is now a source of deadlock.⁷

⁷ For a detailed analysis of the Single Undertaking and of critical mass negotiations, see (Wolfe, 2009a).

The “cathedral” imagery is one Lamy has used frequently as Director-General, and it is as misleading as the “medieval” metaphor he used to describe WTO decision-making when he was the EU trade commissioner (Wolfe, 2005). Most insiders dispute the argument that the Doha Round is simply too complex, in the numbers of issues and significant participants, claiming that the Uruguay Round was more complex because of the range of topics and the number of new agreements. Despite the WTO’s difficulties in reaching Doha Round modalities, they say, putting the Uruguay Round together was harder.

The July 2008 ministerial provided a small empirical test of the hypothesis that plurilateral critical mass negotiations might be an alternative. Members worked on a number of deals beside the main negotiations, notably on the long-running banana saga and on collective requests in services. None survived the collapse. In the core of the negotiations, the proposal for sectoral negotiations in NAMA contributed to the breakdown because the country everyone would see as essential in any plurilateral negotiation, China, explicitly rejected the “critical mass” language in the NAMA Chairperson’s July text.

Whether the round will end as a Single Undertaking is obviously unknown, but it does seem that what was achieved in July 2008 was conditional on the whole package. Participants observed that in 2000, negotiations began on agriculture and services in accordance with the Uruguay Round built-in agenda. Nothing happened. One participant saw no possibility that a deal could be closed on services, for example, without agriculture and NAMA: developing countries will not let developed countries pocket financial services and telecommunications without progress on agriculture. On the other hand, the EU has always maintained that without progress on NAMA, services and intellectual property, progress on agriculture was impossible.

References to the importance of the Doha Round as a “Single Undertaking” and to the centrality of overall balance in the final “package” were common currency during July 2008. Moves towards consensus on issues in one area were explicitly tied to the possibility of consensus in others. Indian trade minister Kamal Nath spoke for many Members when he observed that “The WTO is not a buffet that you pick up what you want and go.”

Organization of the meeting

The additional process challenge for the Director-General was to create a horizontal process that would engage the right people, both in the preparatory phase among senior officials and then among selected ministers, while maintaining the transparency and inclusiveness of the negotiations. The real work is done in what he calls “consultations”, not in formal meetings. From April until the end of June Lamy encouraged senior officials to come to Geneva for consultations both with the negotiating group Chairpersons in agriculture, NAMA and services, and with himself on sticking points and the linkages. He reassured the TNC in April that these consultations would take place in a wide variety of formats, including informal meetings of Heads of Delegation and negotiating groups, one-on-one “confessionals” with the Chairpersons or himself, meetings with regional groups, and the various “Green Room” configurations.⁸ The variety of configurations are needed because 153 Members cannot conduct trade negotiations in plenary session. The simplification begins with clubs, whose recognized coordinators can represent them in smaller meetings.

⁸ On the types of WTO meetings and their varying degrees of formality, see Box 2 in (Wolfe, 2007b).

WTO clubland and the collapse

I define a “club” as a group of countries united or associated for a particular purpose, a definition that intentionally evokes a looser form of association than the common tendency to see informal groups of states working within international organizations as “coalitions”. The Doha Round is characterized by a bewildering array of clubs with banal and whimsical names, from the G-4 through the Dirty Dozen and the Friends of Fish to the G-90 (Wolfe, 2007a; Wolfe, 2008; On coalitions as an important aspect of actor strategy in negotiations, see Odell, 2006). Every Member naturally insists on *participation* in making decisions that affect the country directly, while having *influence* on decisions that affect the evolving structure of global governance. The Single Undertaking stimulates the formation of clubs because everybody will be bound by the result. Members think they had best work with others to advance their interests, limit their losses, and counterbalance the perceived EU/U.S. dominance of past bargains.

Three sorts of clubs are relevant in the Doha Round. Clubs based on a broad *common characteristic* (e.g. region, or level of development, like the Africa Group or the LDCs) can influence many issues, including the round as a whole, but weakly. The LDCs, ACP and the African Group coordinated every day, without calling themselves the G-90. They were successful in ensuring that preference erosion stayed on the table, and that all three of their coordinators would be in the Green Room.

Clubs based on a *common objective* (e.g. agricultural trade, like the G-20 and the G-33) can have a great deal of influence, but on a limited range of issues. These clubs were structured by the nature of the Doha Round agenda. The G-33 (led by Indonesia) was formed to advance the interests of import-sensitive poor farmers because the Cairns Group (led by Australia) and the G-20 (Brazil) were dominated by export interests. The G-10 (led by Switzerland) defends exceptions to the formula for “sensitive” products. The SVEs and RAMs also formed to defend the need for exceptions. The older ACP group ensured that the EU did not lose sight of the banana problem. The possibility of an exception for a certain class of Members creates a NAMA club to lobby for the provision; the existence of clubs forces a Chairperson to be sure that something in the text responds to that group’s concerns. Most clubs met at Ministerial level on Sunday July 20. Whatever they discussed among themselves, their public statements simply listed their particular areas of concern in familiar terms. All the clubs had coordination meetings during the ministerial, some every day, including the Cairns Group, the G-20 and the G-33. The coordinators of all the developing country clubs met again on July 27, which led to a joint statement on “special products” and the SSM in the July 25 package.

The approach of the end game is exposing the weaknesses of the clubs, as anticipated in the negotiation analysis literature. They work well to make distributive demands, but badly to make integrative decisions. Common interest clubs are organized by negotiating group, and negotiating groups are partly organized along the lines of the bureaucratic homes of the negotiators—the officials responsible for agriculture, NAMA and fish subsidies have different home ministries in capitals. No club, therefore, has a balanced view of the overall Single Undertaking.

Reaching a compromise within a Doha Round club can be so hard that the coordinator has no scope for compromises with other clubs in small group negotiations. The problem is said not

to afflict the G-20 (“You can talk to Brazil. They go back to consult, and then what Brazil said the G-20 would accept, they did.”) But it may have limited the effectiveness of the NAMA-11 since Brazil wanted a deal, inside the G-7, but its MERCOSUR partner Argentina argued against the deal in the Green Room. This problem, however, may have most severely affected the G-33, which apparently has difficulty engaging in the give and take of negotiations (“the G-33 is not a group you can negotiate with”, said one participant). Its apparent difficulties are compounded by the role of its two gigantic Members, India and China. Most G-33 delegations are small, with little of their own analytic support. Some participants alleged that India would get the G-33 to take a hard position on one element of a package without necessarily explaining the balance of trade-offs it included. And yet inside the G-7, India and China kept saying that they could not sell the SSM part of the package to the G-33.

The third sort of club exists to *bridge* the gaps between opposed positions. The old Quad (U.S., EU, Japan, and Canada) has not met at ministerial level since 1999. Part of the effort to re-start the round after the failed Cancún ministerial in 2003 was a process involving the principal antagonists on agriculture: the U.S. and the EU, who are opposed to each other; and Brazil and India who are opposed both to each other and to the U.S. and the EU. These four repeatedly tried, and failed, to sort things out as a “new Quad”, especially in 2006 and 2007, sometimes including Japan and Australia in a G-6. This bridge club contains the principal antagonists on market access and domestic support in agriculture, but they are all publicly committed to their positions, which made compromises difficult.

The fall of the “Green Room”

The next *counterfactual* to do with the organization of the meeting concerns the best way to balance transparency with effectiveness. In July 2008 the TNC met informally every day for transparency, and the Director-General’s daily reports to the Heads of Delegation in that format were posted to the WTO website. His stated intention had been that a ministerial Green Room would be the forum for negotiations. Attendance lists are never released, but we know that some leading traders are always included in their own right, while others are invited in their role as coordinators of one of the many WTO clubs, depending on the topic.⁹ The key is “inclusiveness”, meaning representatives of all Members and all interests, and “transparency”. Representatives in the room must fairly articulate the views of their club and expeditiously and comprehensively report on the deliberations; and the Chairperson must fairly present any results when reporting on negotiations in plenary meetings or drafting documents designed to attract consensus.

The procedure remains controversial, yet it is increasingly ineffective. The dynamic of meetings with so many people in the room (each of the more than 30 Members invited could have two or more people at the table in July 2008) is not conducive to real engagement. Ministers, one wrote, were sitting together like sardines in chairs that are not the world’s most comfortable while listening to speeches repeating familiar positions. Another told stakeholders that he had not sat down for so many hours in one day to listen and not speak since grade school. Another newcomer to the process complained that ministers admonished others for mentioning sticking points, then mentioned their own.

⁹ The composition of the July 2008 Green Room can be inferred from the list of the Members attending the services signaling conference in (WTO, 2008j).

The rise of a new small group

When it was clear that the Green Room was proving sterile, the Director-General proposed that he hold “consultations with a smaller group.” That group of seven Members (Australia, Brazil, China, EU, India, Japan, U.S.), was inevitably called the G-7. It was chaired by the Director-General, and included the leading personalities of this stage of the Doha Round, Susan Schwab (United States Trade Representative), Peter Mandelson (EU Commissioner for Trade), Kamal Nath (Indian Minister for Commerce and Industry) and Celso Amorim (Brazilian Foreign Minister). The agriculture, NAMA and General Council Chairpersons were involved in its work. This group seems to have started on Wednesday, July 23 after Nath returned from New Delhi following an emergency vote in parliament.

The Green Room accepted the concept of the Director-General having consultations with the G-7, if it would help, recognizing that they would never conclude with the process that they were using. But Green Room ministers were not happy to hear reports they could not discuss, with no sense of who was supporting which position. In the TNC on July 24, several Members reportedly expressed concern that if they were not involved in the negotiation of a deal they would have no “ownership” in the outcome. Lamy replied that “there is a bigger problem if there is nothing to own,” but he reassured them that “No decision will be taken by a small group.” In retrospect it appears that the G-7 were effectively accountable to the Green Room, despite the whining from some Members; still, many ministers were upset or somewhat embarrassed at having little to do.

But more than the G-7 were busy. Geneva in July 2008 was a multi-ring circus, with nobody able to follow let alone be in all the small meetings, many on non-Doha Round issues. In addition to the intellectual property consultations, the Director-General and the Chairpersons had meetings on technical issues, like “paragraph 6” in NAMA, and preferences and in-quota tariffs in agriculture. The efforts to find a resolution among the protagonists on tropical products and preference erosion were especially useful. Among the many bilateral meetings, Brazil and the EU reached an agreement on ethanol. The EU also managed to negotiate an accommodation on the perennial bananas dispute that pleased the Latin American exporters but angered the ACP group by diminishing the value of their privileged access to the EU market. That deal collapsed with the ministerial.

In contrast, planned meetings among the protagonists on one of the most controversial remaining issues, cotton subsidies, never happened. The U.S., EU, Brazil and the C-4 (Benin, Burkina Faso, Chad, and Mali) had been exploring a possible compromise since May 2008. Just before the ministerial in July, the U.S. rejected the cotton provisions in the Chairpersons July text, but signalled that it would make a counter-proposal when other aspects of the modalities were agreed, especially domestic support—cotton had to be the last shoe to drop, according to Schwab.

Assessing the role of the G-7

Opinions are divided on whether the G-7 was a useful device in July 2008. The negative answer is a *counterfactual*. It was not useful because such agreement as was reached could have been reached without them, and they failed to bridge the remaining gaps. The positive answer recognizes that the Green Room was too big, that all agreed to its creation. Something like the G-7 was necessary in this view, but not sufficient.

No one small group will ever represent all interests on all issues. This little group of seven Members was a “friends of the chair” group constituted by the Director-General as Chairperson of the TNC. The seven in July 2008 were EU, U.S. and China, the big three of world trade, plus representatives of the agriculture clubs—Brazil for G-20, India for the G-33, Japan for the G-10 and Australia for the Cairns Group. It was an odd assortment. Brazil should have been in the G-7 for some issues, but not all. India only belongs in such groups as a representative of others, not because it has much real trade weight itself. China should have been at the core much sooner, but failed to be assertive in its first experience playing a role in the limelight. Participants sometimes represented themselves not their club. They were the principal antagonists on some of the tough issues. The assumption was that if they could agree on those issues then other countries would too. It may have been an unrealistic assumption. The NAMA-11 hardliners were not represented. The U.S. presentation of the agriculture exporters’ position camouflaged the unhappiness of the many developing country exporters who had related views. Some people thought an African should have participated for cotton, and Indonesia for the developing country importers. Within the group, it seemed that the U.S., EU and Japan often lined up against China, India and Brazil with an ineffectual Australia unable to play the middle ground role that Canada is said to have played in the old Quad.

The people involved

Analysts blithely write of what “Jamaica” or “South Africa” said in a WTO meeting, but the negotiations are obviously conducted by people, with all of their personal attributes. Who should negotiate, and when, generates an interrelated set of four *counterfactuals*. Would July 2008 have been more successful if the roles of ministers and senior officials were in each case greater or lesser, if they had come to Geneva at a different time, or if they trusted each other more?

Role of Ministers and officials

Pascal Lamy, worried by a “disconnect” between Geneva and capitals, has always maintained close contact with ministers. Having been a minister himself (though never elected) he sees ministers as his real peers and colleagues. He is always eager to call them back to Geneva to make the key decisions, ignoring ambassadors. The secretariat thought entrenched negotiators would keep talking forever, so it was time to bring in ministers. Maybe they thought ministers and ambassadors live in different worlds, one participant said, but hell has no fury like a bureaucrat scorned. The secretariat could once pretend that if the ambassadors were intransigent it was because they were on their own, playing a personal role with no instructions from home. Appealing over their heads to ministers might have helped to break an impasse. Given the internet, however, it is unwise to assume that ambassadors are not in close contact with their capitals, or that their own constituencies are not able to follow events. When ambassadors do not agree, it could be because a deal is not ripe.

This problem like many others reflects the changing nature of participation in the trading system. The original GATT was a small tight club of like-minded officials. In the Uruguay Round, a small number of capital-based “senior officials” or “chief negotiators” played a highly influential role. This round dominated by developing countries is more complex, not least because developing countries do not necessarily have a system of public administration in which the older model makes sense—and most could not afford the air travel and Geneva

costs anyway. For many developing countries, their Chief Negotiator, and the only senior official who follows the negotiations closely, is their Geneva ambassador, often supported by a small delegation.

The current Director-General may not be sufficiently sensitive to the reality that not all ministers are well placed to be their own chief negotiator. Some ministers are unelected technocrats (Schwab, Amorim) but others are campaigning politicians to the tips of their fingers (Nath). Some of the key ministers are personally engaged all the time, but most are not. Some have years of experience with excellent technical support at home and large Geneva delegations, but others have little trade experience, small Geneva delegations, and limited technical support. Some ministers from major countries had never been to a WTO meeting before (Canada).

In July 2008, some ministers were comfortable working in English (India) but language can be a challenge for others (China, Japan). They may not always even be able to understand the open issues, let alone see them in relation to the overall deal. Mandelson observed in his Blog on July 22 that “By far the hardest part of these negotiations is absorbing the huge range of technical detail, and mastering the arguments that negotiators have to handle and deploy in the Green Room, alone except for a single senior official sitting behind them, for six or seven hours at a time. I’ve never been in an environment that combines bare-knuckle political argument and technocratic detail in quite the same way.” Participants observed, bluntly, that some ministers in July 2008 clearly did not have a clue.

Considerable variation among the negotiating groups also makes a difference. The NAMA process was mostly Geneva-based, whereas agriculture had had intensive participation from capitals. Services negotiations have mostly involved technical experts from capitals in each sector. Few ambassadors engage in the Rules negotiations, and not many officials come from capitals. Whereas agriculture may well have been reaching the point in the spring of 2008 where some ministerial engagement would be useful, the initial objective of the “horizontal” process in other areas was to encourage senior officials to engage.

The other challenge, especially but not only in NAMA, was to get Members talking privately among themselves on sensitive issues, instead of addressing demands to the chair. In contrast to agriculture, where many small groups met to work out solutions to specific problems (“partial designation” in sensitive products is a frequent example), no such groups met on the many difficult issues in NAMA. In June 2008, the Americans hosted a series of intensive discussions at the senior official level among a so-called G-12 of Australia, Brazil, Canada, China, EU, India, Japan, Malaysia, Mexico, Pakistan, South Africa and the U.S. (Participants included developed country exporters, the “middle ground” group and NAMA 11.) The G-12 made little progress, perhaps because of the looming ministerial. They exchanged information, ran simulations of the various flexibilities on application of the formula, and held technical discussions of the anti-concentration clause. But they made no progress on the central disagreements.

Misjudged timing?

Retrospective judgments on the wisdom and timing of the ministerial vary. The Director-General was pushing to get the core of the deal done before the U.S. election. That drove the timing, not the internal process, some say. Others observe that negotiations had reached a period where people’s ability to give ground had declined. They had gone as far as they could

without the threat of ministers coming. The assumption was that a breakthrough on a small number of issues could have made it easier for officials to sort out the rest. Certainly the agriculture and NAMA Chairpersons had been deeply frustrated in May and June. The agriculture Chairperson said that ministers could phone him all they liked, but he could not issue a new text without some convergence among Members. Despite a lack of such convergence, the NAMA Chairperson issued a new text in May, with enough moving parts, he hoped, to provide Members with room to negotiate, if they wished. They did not. After six days of intensive consultations at the beginning of June, he said that the situation was worse than at the beginning: new issues were reopened, members maintained extreme positions and took new even more extreme positions, and made new proposals that took the group further from consensus. Would that process have been as fruitless had Members not been expecting the Director-General to call ministers to Geneva? Agriculture again provides a contrasting example: once the invitation was issued, agriculture officials succeeded during July 2008 in stabilizing and even closing some issues prior to ministers arriving in Geneva.

Opinions are also divided on whether it ever makes sense to involve ministers. Most officials privately believe that ministers are a nuisance. Leaving aside the need to divert staff time from negotiations to making dinner reservations, they think that officials should resolve technical issues leaving a small number of well-defined political problems to ministers. The example given is the SSM, which is supposedly technical, and so ministers floundered when they tried to discuss it. The technical complexity of the SSM certainly defeated ministers in July 2008, partly because officials had not clarified the issues.

The better counterfactual question about when to engage ministers, and the timing of a meeting, therefore is whether or not an issue is “stabilized”. By that I mean consensual understanding of the issue, and agreement on a range of concrete options susceptible to debate in a short time frame. When we look at the Appendix 2, we see that ministers closed most of the issues that had been stabilized before they arrived. They floundered on ones where officials had made little progress. That does not mean officials could have closed the deal themselves. The presence of ministers, and their connection to capitals, means decisions are made. Negotiators claimed to have made progress with ministers that had not been seen in a year. Some decisions really do require ministerial authority, because ministers are the ones who have to defend the results to their Cabinet colleagues, and ultimately to voters.

Mistrustful negotiators?

Complex negotiations require trust among the participants. Was a lack of trust a problem in July 2008? For purposes of this *counterfactual*, I work with a simple definition: “trust involves faith or confidence in another’s propensity to keep promises, to negotiate honestly, to show respect for other points of view, and to express some level of concern for the welfare of others (Leach and Sabatier, 2005: 492).” The elements include the perceived legitimacy and fairness of the negotiation process; small and stable groups; clear decision rules; congruence on policy-related beliefs; and, an absence of devil-shift (the belief that one’s opponents wield more power than one’s allies). In short, do the Members “recognize that, although they might not share the same underlying interests as their policy adversaries, their adversaries’ interests are still legitimate and worthy of being satisfied (Leach and Sabatier, 2005: 493)?” Trust is hard to observe directly, even for people who are in the room, so this account based on interviews and press accounts is impressionistic.

The Doha Round started with a basic lack of trust: developing countries thought they got a bum deal in the Uruguay Round, and wanted to ensure that it did not happen again.¹⁰ That is why then-Director-General Mike Moore branded Doha a “development” round to get it launched in 2001; why effort has been devoted to ensuring a transparent, inclusive and bottom up process; why clubs have proliferated as groups of developing countries try to ensure that they are heard in the negotiations; and why Members constantly refer back to the “mandate” when framing their demands. It may also be why claims from developed countries are often not treated as balanced but rather as an attempt to capture gains for the rich. It may not be surprising that many developing countries thought that the point of a “development” round was unreciprocated concessions by developed countries. If a low level of trust has impeded negotiators who do this all the time, for years on end, one might expect that developing trust is even harder for ministers whose engagement is episodic, who are often unused to WTO, or international negotiations, and who do not know each other.

After more than seven years, the general level of trust among Members was not high. They still diverge on their policy-related beliefs about the costs of trade liberalization or the benefits of WTO obligations, as do their academic and NGO advisers. Participants do not necessarily trust each other not to renege on their contracts in translating modalities into Schedules, or in implementing new obligations. The lack of trust is evident in a greater desire to pin things down. Members are less willing to allow constructive ambiguity, or to record polite “agreement to disagree” because of the changes to dispute settlement – Members have learned that they are open to surprises when the Appellate Body tries to fill gaps in the treaty language. The July 2004 frameworks for agriculture and NAMA pose particular problems when Members try to assess the balance between them. The complex details have placed huge demands on the limited analytic capacity of some developing countries. Often, therefore, developing countries seemed to react on the basis of principle, not specific analysis of a proposal. When people do not understand an issue, and do not trust their partners, it is easier to say no than to accept something that may cause problems later on—the lesson developing countries think they learned from the Uruguay Round.

The level of trust seems to have been even lower in July 2008. G-33 Members are reported to have speculated as early as July 22 that the U.S. wanted to avoid the issue of cotton by engineering a breakdown on the SSM instead (South Centre, 2008). Of course clubs can be incestuous. By talking only within the G-33, for example, the members are sometimes unaware of others’ concerns, or are easily persuaded that other positions are illegitimate and therefore should not be treated seriously. But the problem was most acute among the leading participants.

The ministers see each other frequently. In May, Schwab saw Amorim in Rome and Nath in New York. Nath saw Mandelson in London in early July 2008. But that does not mean that they like each other much. Many participants offered evidence of bad blood in the G-7: they all hated Mandelson; nobody trusts Nath; and Amorim was called a fair weather friend—Nath was mad at Amorim for having agreed to the July 25 package without consultation. But that was not the real problem in July 2008. The big tension in the G-7 was between Schwab and Nath. The Americans had been disparaging the Indians for months, calling them a roadblock to success and demanding that they show leadership. This frustration helps to explain the rather strident U.S. attacks on India and China after the collapse. The Americans

¹⁰ Many analysts agreed—see (Finger and Noguez, 2002).

obviously did not trust their key partners.

Some of the leading developing countries were also mistrustful. When Amorim arrived in Geneva he said that it is important that modalities texts are not presented on a “take it or leave it” basis, where developing countries could be “put in a position to have to reject the text and then have blame being put on us.” He stressed the importance of developing country unity, especially among the G-20, because of the likelihood that developed countries would try to divide them.¹¹ Argentina told the TNC on July 21 that “Paragraph 24 is crucial to avoid that asymmetric ambition coupled with asymmetric negotiating power, distorts the mandated process of reform in Agriculture, while at the same time deprive developing countries of needed and legitimate policy tools for their industrial development.” Nath is reported to have said that the “Developed countries are asking flexibilities for commercial interests. The developing countries are looking to protect the poor and for provisions that can take them out of poverty.” Indian Commerce Secretary Gopal K Pillai described the large number of “flexibilities” for developing countries inserted in the NAMA text as “a deliberate attempt to break developing country groups like NAMA-11.” At a TNC meeting, Brazil described the agriculture text, where they have offensive interests, as being “built on a logic of accommodating exceptions rather than seeking ambition.” The representative then turned to NAMA, where Brazil has defensive interests, and claimed that the text was “built on the logic of forcing countries, especially developing ones, out of comfort zones.” Developed countries might have wondered if he had read the NAMA text, which one participant described as “exception built on exception.”

The developing countries may also have not trusted each other. Nath told the TNC that India, which had been part of the G-7 process in 2008, and of meetings in similar configurations in previous years, “has important trade interests on tropical products and we cannot accept decision among a few as a *fait accompli*.” He added that “India, as a major producer, consumer and exporter of cotton, has deep interests in this issue and we would like to be involved in efforts to find a solution.” Of course the same could be said by all Members on particular issues, but they have to have confidence in their representatives in smaller groups within the WTO’s concentric circles. Does India lack such confidence, for example in the many developing countries who were engaged in the successful negotiations on tropical products? If he does, it suggests that others might wonder (as some apparently did) whether in the small groups where Nath did participate, was he representing only India and not other developing countries?

Part 2 The Doha Round modalities as a problem

The argument so far is that process matters. In this section I turn to substance. The nature of the thing being negotiated is also a counterfactual factor in the impasse. The nature of the modalities has influenced how Members organize themselves and conduct the negotiations, just as the commercial interests of the Members have structured the modalities. Understanding how the modalities work from an institutional design standpoint is therefore essential to understanding what happened in July 2008. The formula approach for agriculture and NAMA is the key Doha Round modality, and it is an important *counterfactual* factor. Would request and offer negotiations be better? Would it be easier to negotiate the formula

¹¹ In the event, Amorim was one of the participants in the G-7 who supported the July 25 text as an integrated package that others should simply accept.

with fewer “flexibilities” and therefore more clarity about the potential value of the outcome? Would a new approach to services negotiations and a better understanding of trade and development help?

The formula approach

The eventual treaty recording the results of the Doha Round will contain both rules about a Member’s trade policy mechanisms, and Schedules with the details of specific policies that apply to commerce that crosses the border. The modalities will determine how Members draft the treaty.¹² Negotiations on tariff schedules were originally based on a set of bilateral request and offer negotiations (Hoda, 2001: 27), which was already too cumbersome in the much smaller GATT of the 1960s. Now with the increase in the number of active members, negotiations on thousands of individual tariff lines with two or three dozen significant trading partners is not feasible for any Member, however large their delegation. NAMA and agriculture market access negotiations (and the agriculture negotiations on domestic support) are based on a formula that will be used by each Member to calculate its new tariff levels. In NAMA Members had earlier agreed that a “Swiss formula” that produces deeper cuts on higher tariffs, would be the basic modality.¹³ A Swiss formula looks like this: $Z = AX/(A+X)$ where X = initial tariff rate; A = coefficient and maximum final tariff rate; and Z= resulting lower tariff rate at end of period. The key is the coefficient, A: the higher the coefficient, the smaller the cut. Negotiations focus, therefore, on the value of the coefficient, whether some groups of countries or products should have a higher or lower coefficient than others, and whether further “flexibility” is needed.

The NAMA Chairperson in his 2007 report implied considerable convergence on the idea of two coefficients, but no convergence on what those coefficients should be.¹⁴ Exporters worry that if the developing country coefficient is too high, it will not reduce bound rates enough to cut into applied rates, producing no new market access. (Many developing countries have significant “water” in their tariffs, meaning the applied rate is significantly lower than the bound rate.) Rounds may be most useful at consolidating policy change, rather than actively driving liberalization, but that it is hard for economic actors to understand—they take today’s actual access as given, not caring or understanding that applied rates can change tomorrow if they are not bound in the negotiations. Indeed a formula approach provides no incentive for access commitments greater than a country would have made anyway, and no way for a demandeur to use additional commitments of access to its own market to influence partners

¹² The Uruguay Round modalities first took rough shape as Part B of the Dunkel text (GATT, 1991), later separated as (GATT, 1993). Participants drafted their Schedules for acceptance by others on the basis of the 1993 modalities, but whether they did so properly was not subject to dispute settlement.

¹³ The tiered approach used for the agriculture market access formula has some similarities to a Swiss formula, since the tiers lead to bigger cuts in higher tariffs. The coefficient in a Swiss formula effectively defines a “cap”, however, which proved unacceptable in agriculture for some developed countries.

¹⁴ The debate could sometimes be absurd as when on May 27, 2008, the NAMA-11 (South Africa speaking) said that developed country demands were misplaced, because market access was not in the mandate. Another delegate dryly observed that the words appear in the name of the negotiating group on Non-Agricultural Market Access.

to make deeper cuts. Request and offer negotiations among “principal suppliers” essentially allow better bilateral targeting.

The demand for flexibility

A formula also produces rigid results, which leads to demands for exemptions, or “flexibility”. In agriculture, Members have already agreed that the formula will have multiple tiers, with flexibilities for some developed countries (“sensitive” products) and all developing countries (“sensitive” and “special” products). The agriculture text is highly complex (even over-engineered, some say) but the result is a structure where Members have many potential trade-offs, making balance within the agriculture modalities potentially easier than balance within NAMA. Most agriculture issues were close to being stabilized before the July 2008 ministerial, with some notable exceptions.

In NAMA, Members had already agreed to complete exemptions from the formula for many countries, including all LDCs, so it will only be applied by approximately 40 Members (counting the EU as one), representing about 90% of non-agricultural trade in goods. The host of provisions for various groups of developing country Members applying the formula to take smaller cuts or no cuts at all on various tariff lines have proved complex to define, because Members have not agreed on any principles on which to assess claims for an exemption. Members also have differing views of the value of flexibility as opposed to having a high coefficient.

Developed countries have attempted to limit the developing country flexibilities and exceptions in NAMA in two ways. The first is a demand for an “anti-concentration clause” that would ensure that no matter how the flexibilities were applied, no country could completely limit liberalization in an entire sector. As Mandelson said to the TNC on July 21 “Why should European industries like cars and textiles see their tariffs slashed to less than 6% at home while the tariff protection of the same sectors remains untouched or barely affected in the fastest growing economies in the world?” The other is the attempt to ensure the possibility of negotiations that might show substantial elimination of barriers in selected sectors, the so-called sectoral negotiations. Sectorals as a principle had long been accepted, but the question of whether participation in sectorals would be voluntary had been contentious since the 2005 Hong Kong ministerial, as was whether or not a “critical mass” in a sector would be needed. Requiring critical mass would make China’s participation mandatory in most potential sectors, given its weight in world trade.

These debates are not easy to organize on north/south lines. The “middle ground” countries, like Singapore, Turkey and Mexico, think that the new flexibilities can address the concerns of all developing countries, but they oppose the carve outs and special treatment for some.¹⁵ An additional complication, an illustration of the principle that no good deed goes unpunished, is that if developed countries (especially the EU and the U.S.) improve access to

¹⁵ The group first surfaced in 2007 proposing a middle ground between the positions of the Friends of Ambition, the developed countries that are pushing for full liberalization of market access, and NAMA-11, the developing countries that are reluctant to open their markets to manufacturing goods. Many Members of the group have relatively open economies already, or have negotiated free trade deals with their major trading partners. Their statement argued that the chair’s report on NAMA modalities had come out in about the right place on the architecture and the range of coefficients (WTO, 2007c).

their markets for all developing countries, the ones that currently have preferential access will be harmed. Efforts to mitigate this damage would come at the expense of competitive developing country exporters. China was especially unhappy in July with potential concessions to preference-receiving Members, because the U.S. sector with the most important preferences that might therefore be subject to a lengthy delay in liberalization is textiles and clothing. This sector, the one of most interest to China, was the one developed countries had no interest in listing for possible sectoral negotiations leading to the elimination of all barriers to market access.

The Black Box problem emerges

The transparency of the current formulas may also be a problem. The advantage of the Uruguay Round market access approach was ambiguity: until the schedules were published, everyone at home who had not been privately briefed by the negotiators could hope that their interests were protected (Winham, 2007). The disadvantage of the July 2004 Framework approach to modalities, the approach on which negotiations foundered in July 2006, 2007, and 2008, is that once the coefficient is inserted into a formula, all domestic producers can calculate the effects on their interests. Producers sensitive to imports can start to rally support for maintaining protection. Exporters watching this process at home may suspect that their hoped for benefits in other markets are illusory. On the other hand, drafters of government budgets know that leaking the significant details in advance helps eventual approval. Perhaps a “no surprises” approach to trade negotiations while being slower to reach an outcome will be easier to ratify.

Although the Doha Round modalities approach might be too transparent in principle, in practice it has created what some negotiators see as a “black box” problem, yet another *counterfactual* factor. With all the exceptions, flexibilities and special safeguards, it is not easy to know what the results will be for specific products that are important for particular domestic constituencies. The proposed special safeguard in agriculture (SSM) may have been the most controversial aspect of the modalities, which came as a surprise in July 2008 to many observers and participants. It would only modify the results of the formula in specified circumstances, but it is a black box measure because of inherent uncertainty about how it would work (Wolfe, 2009b).

Elements of the original “request and offer” process linger in agriculture, because every member has products where the formula produces unhappy results, and markets where they want to be sure of enhanced access for a particular product, the formula notwithstanding. Working backwards from a desired outcome on a tariff line to the formula that would produce such a result is sometimes called “reverse engineering”. Members want to be sure that access that appears to be given in one area is not taken away in another. Negotiators see no point using negotiating capital in agriculture to get increased access to a market if they are uncertain whether it will be taken away by the SSM. Given all the “flexibility” in NAMA, sectorals are a way to ensure the possibility of real negotiations in important areas. In this sense the SSM and sectorals may not be the only problem areas, but they symbolize the deeper problem in the Doha Round. After years of demands for flexibilities and exceptions as of right, the major exporters wonder whether anything will change as a result of the Doha Round.¹⁶

¹⁶ I think that it is in this context that one should understand this Obama administration statement that caused so much consternation in early 2009: “it will be necessary to correct the imbalance in the

Services are also in the black box

One reason that services is not part of the modalities phase is that nobody has yet found a formula that could work in services negotiations.¹⁷ The problem with a standard “request and offer” negotiation in services remains that it is bilateral (Wolfe, 2007b: 28ff). In early 2006, close to three dozen countries participated in the 21 collective requests under a provision agreed at the Hong Kong ministerial in 2005. Due to the fragmented nature of services negotiations, however, it proved particularly difficult to see what offers Members might be expected to make in response to the collective requests. Services is important to counterbalance agriculture for many developed countries, but uncertainty about services had been impeding achieving modalities in agriculture and NAMA. The plurilateral meetings of experts clarified technical issues, but eventually started running out of steam because services offers have been in a holding pattern. During the July 2008 ministerial, Members in the services negotiating group found a way to add specificity to the idea implicit in Annex C of the 2005 Hong Kong declaration that Members should seek to bind existing access while creating new opportunities. They largely accepted the essentially political principle that “Members shall, to the maximum extent possible, respond to the bilateral and plurilateral requests by offering deeper and/or wider commitments. Such responses shall, where possible, substantially reflect current levels of market access and national treatment and provide new market access and national treatment in areas where significant impediments exist... (WTO, 2008c).” It will be impossible to get to new offers until the agriculture and NAMA modalities are established, but the signaling conference provided clarity for everyone about how close they might come to meeting their expectations for services market access (WTO, 2008j). If what was signaled was in final offers, participants said, it would be enough to close the Single Undertaking on services. That sense of optimism was based, as many ministers pointed out, on words. Along with all the other side deals under discussion in July 2008, it was ultimately dependent on the establishment of modalities for agriculture and NAMA.

Development muddles the modalities

Despite calling it the Doha Development Agenda (a mistake, many participants now think), the WTO has never had a consensual understanding of what development might mean, or what the WTO could contribute. The Doha Round is haunted by the Uruguay Round, because developing countries think that the grand bargain was a bum deal. The effort in the 1990s to redress the bargain directly in the work on “implementation” was a source of delay and bitterness, yet the apparent lessons inform their negotiation strategy and confuse the debate about the relation between trade and “development”.

The development *counterfactual* is hard to assess directly, but the absence of consensual understanding can be seen in paragraph 16 of the Doha declaration in the commitment that “The [NAMA] negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through *less than full*

current negotiations in which the value of what the United States would be expected to give is well-known and easily calculable, whereas the broad flexibilities available to others leaves unclear the value of new opportunities for our workers, farmers, ranchers, and businesses. (USTR, 2009)

¹⁷ On other difficulties in the services negotiations, see (Adlung, 2009; Hoekman, Mattoo and Sapir, 2007).

reciprocity in reduction commitments....” The highlighted phrase is recalled constantly by developing country delegates, although it is not at all clear what it means. The GATT had no provisions or procedures setting out how to measure or define reciprocity; instead, it was up to members to agree upon how best to assess the reciprocal balance as negotiations progress (Hoda, 2001: 53). The Doha Round has not advanced this old debate, which goes back to “non-reciprocity” for developing countries in the Kennedy Round of the 1960s. Does it mean, for example with respect to the formula, that the *rate of reduction* in tariffs should be less for developing countries, that the *size of the average cut* should be higher for developed countries, that the *final rates* should be lower for developed countries—or does it describe the value of the NAMA modalities as a whole, including all the flexibilities and exceptions for developing countries? Does the mandate mean that less than full reciprocity is the objective in itself, or only that it could be allowed if necessary to meet the needs of developing countries? As the NAMA Chairperson observed in 2007, “it is difficult for the Chairman to assess with confidence whether less than full reciprocity has been achieved, since the positions of the Members are very polarized and there has never been an agreed definition of reciprocity (WTO, 2007a).”

In consequence of the polarization, concessions requested by OECD countries are resisted as illegitimate, and the possibility of mutually beneficial south-south bargains is not explored. This distorted view of the trading system assumes that all demands for market access come from multinational corporations in developed countries, or from agribusiness, that consumers never benefit from trade, and indeed that producers do not care about the price or quality of imported intermediate inputs. Maintaining high tariffs thus comes to be seen as good policy, in all cases, whether or not such “policy space” benefits all producers, or any consumers—as those countries with low applied tariffs seem to recognize. Developing countries find themselves trapped in untenable negotiating positions, defining new obligations for themselves with reference to developed country obligations rather than with respect to good policy.

So-called developing countries in the WTO vary enormously, from small but prosperous Singapore to large but struggling Indonesia. Developing countries have legitimate concerns about the capacity of billions of people to adjust flexibly to greater engagement in the global economy, but the ability of the WTO to respond is blunted if provisions must apply to all “developing countries” equally. One of the mantras of this round is that no new distinctions among developing countries should be introduced—they all have a horror of “differentiation”—although RAMs, SVEs and others are organized in clubs as special pleaders for flexibilities and exceptions specific to a differentiated class of Members.

Lest this seem like special pleading by a Canadian academic, I note that many of the most intractable conflicts pit developing countries against each other, including the SSM, tropical products and preference erosion. Developing country exporters of agriculture (including Argentina, Costa Rica, Malaysia, Paraguay, Uruguay, and Thailand) and of goods (the middle ground group) were extremely frustrated in July 2008. The Thai minister was unusually explicit in his July 25 statement to the TNC that this leading developing country did not share the G-20/G-33 view on agriculture (e.g. allowing rice importers not to cut their tariffs at all) or the NAMA-11 view on the coefficient issue.

Yet important developing country NGOs find novelty in “the expectation by a large number of developing countries that the multilateral trade system should, if need be, depart from trade liberalization objectives in order to take livelihood concerns into account (South Centre,

2008).” That norm is one of the pillars of the trading system, but it is a paradox. Every government is concerned for the livelihood of its citizens, and the trade policy actions of every government risk hurting some other government’s citizens. WTO rounds only work, therefore, if participants aim at achieving an outcome that serves everyone. Many participants claim not to see the necessary shared sense of responsibility. The frustration on this score leads to another *counterfactual* assumption, discussed above, that critical mass negotiations would be an improvement because developing countries not interested in liberalization could be excluded.

Any of the endogenous counterfactuals identified so far could have been enough, alone or in combination, to have created the July 2008 deadlock. But a set of exogenous factors might have also contributed.

Part 3 Problems outside Geneva

The mere fact of having a WTO round does not imply that its completion is, or is understood to be, in every Members’ interest. The *counterfactual* assumption here is that the July 2008 ministerial was impeded by what in the negotiation analysis literature are called the outside options available to key Members. If a country might be better off politically or economically without a proposed deal, it might walk away. If ministers see little extra potential trade in return for increased political pain if sheltered producers or prized domestic regulations are affected, then they will not be inclined to agree. That may have been the case for developing countries worried about how much more of their market would be susceptible not to the EU or the U.S. but to Chinese exports as a result of the NAMA proposals. How the parties perceive, or are persuaded to perceive, their outside options, including maintenance of the status quo, may shift during a negotiation (Odell, 2009).

Macroeconomic conditions

Many people claim that economic conditions affect trade negotiations. When Jagdish Bhagwati sounded the alarm in the Financial Times (January 8, 2009) about the trade policy inclinations of the new team in Washington, he claimed that history shows that the freeing of trade is nearly impossible to achieve in times of macroeconomic crisis, which might have affected negotiation prospects in 2008. This claim faces empirical and analytic difficulties, however, because history shows no such thing, at least in the global trading system. The Kennedy Round was conducted during the dollar crisis of the 1960s, the Tokyo Round was framed by the two oil shocks of the 1970s, and the Uruguay Round carried on despite the recession of the early 1990s.¹⁸

The supposed effect of macroeconomic conditions on trade negotiations may not come from observable factors but from negotiator perceptions, although negotiators and decision-makers may have insufficient economic knowledge, or technical advice, to understand the risks and

¹⁸ If one were to model the claim, one would have to show how say unemployment, GDP growth, or inflation affected individuals, and how that affected their support for policies or politicians. Some work correlates unemployment and inflation with movements in a tariff time series but no formal theories of endogenous protection feature unemployment or the business cycle (Gawande and Krishna, 2003; see also Bohara and Kaempfer, 1991; Lohmann and O’Halloran, 1994; Grossman and Helpman, 1995b; Grossman and Helpman, 1995a; and Balistreri, 1994).

opportunities when circumstances change dramatically and quickly. Rising food prices may have made a deal harder in 2008, by reducing the need for exporters to get new market access abroad, or by making importers ever more worried about protecting domestic production. Rising prices probably made life easier for the U.S and EU negotiators, since their applied subsidy rates are now far below their bound rates. The boom in commodity prices had a double effect. With prices high, developing country exporters saw good prospects regardless of any new WTO deal. Those prices in turn led to a massive drop in U.S. domestic support. Oddly, instead of being pleased, developing countries claimed that the U.S. offer was insufficient because it would lead to a bound level of support double the current applied level of actual support. If the low prices that prevailed in 2007 return, however, the 2008 Farm Bill would lead to a large increase in support. The magnitude of the permitted level of subsidies in the US July 2008 offer, admittedly higher than current actual support, is therefore not as important as the fact that it would be a cap on spending. At the time negotiations were suspended in 2006, one participant said, if the United States had made anything like the July 2008 \$15 billion offer, developing countries would have given it a standing ovation. The 2008 offer in the event was not quite that well received.

Since perceptions might matter, I asked many participants in September 2008 whether rising oil prices and the weakness of the banking system had any observable impact in July 2008. Most agreed with the one who said that “It is not clear to me that variation in the global economy effects negotiating positions.” Since then a rapidly slowing global economy has disrupted trade flows. After the onset of the global crisis, with associated worries that political pressure for protection would increase, Mari Pangestu, trade minister of Indonesia, said (after the APEC summit in Peru in November 2008) that the world had changed so incredibly in the last two months that ministers no longer disputed the urgency of completing the Doha Round. Yet that sense of urgency was not translated into action in Geneva. To the extent that exogenous factors were relevant in July 2008, one would be better to look to domestic political calculations.

Domestic context in the leading participants

The domestic politics variable is frequently invoked by negotiators, academics and journalists (Milner, 1997; Evans, Jacobson and Putnam, 1993). It too can be hard to assess objectively, because it has two dimensions in the minds of chief negotiators and trade ministers: 1) how they perceive the pressures from their own constituents; and 2) how they perceive the pressures on their counterparts. Both perceptions can have real effects without being objectively true. As one participant said, it is not because there is an election somewhere that a country’s basic interests change—but that was just his perception.

Producer interests

Governments must balance the concerns of exporters interested in the trade policy of other countries—both access to import markets and support for competitors in third markets—with the concerns of producers who care only about their own country’s trade policy. Negotiators who overlook these domestic pressures on their partners are unlikely to succeed, but it is hard to estimate the impact of these off-setting concerns on negotiators. Many analysts worry that the apparent absence of civil society protest in July 2008 is related to the absence of apparent private sector support. Unlike the end of the Uruguay Round, when all sorts of businesses signed a two-page advertisement on why the deal was important in the New York Times, participants think that it has never been credible that such a thing would happen this time.

Business does not see the big money, they say. The peak associations of manufacturers and service providers loudly support the Round, because they understand the modalities, but individual firms are silent, perhaps because they cannot see how their specific interests will be addressed. (It is for this reason that some people see merit in a request and offer negotiation.) Perhaps the private sector and civil society are bored for the same reason: the Doha Round promises to lock in the status quo but it is not going to force further liberalization. The exception is agriculture, where farmers have no such certainty.

Agriculture lobbies in all OECD countries continue to follow the Doha Round closely, and to make their views extremely clear to politicians. The representatives of farm organizations were present in Geneva in force, as usual, but they did not have the field to themselves. In July 2008 the Canadian Chamber of Commerce broke with longstanding practice to criticize the hold farmers have on trade policy, saying that it was time for the federal government to sacrifice some tariff protections enjoyed by supply managed sectors in the interests of a new international trade deal. In April, the U.S. Chamber of Commerce said that the United States must take the politically risky step of backing deeper farm subsidy cuts to help bring the round to a successful conclusion. “In exchange for that ambition on agriculture, we expect more” from developing countries in terms of opening their markets to U.S. goods and services, they said, describing the trade-off necessary to get a deal that makes deep cuts in U.S. farm subsidies through Congress. The U.S. National Association of Manufacturers made well-publicized visits to Geneva in the spring to signal their interest. European and Australian business associations also lobbied for more ambition in NAMA even as the Federation of Indian Chambers of Commerce and Industry lobbied for less.

Politics in Washington and Brussels

Everyone in Geneva was acutely aware that the U.S. President did not have trade negotiating authority from Congress, and that his successor was likely to be from a different party. Everyone thinks themselves an expert on U.S. politics, and those who do not listened to the warnings from U.S. think tanks and NGOs. An additional complicating factor was the 2007 Farm Bill, finally passed in June 2008 over-riding a Presidential veto, much to the disappointment of U.S. trading partners. Developing countries worried that the U.S. could not agree to a Doha Round outcome that would require changes to the Farm Bill, and they worried about revealing their own bottom lines without assurance that the Congress would not renege on the American commitments. While many could understand the Director-General’s desire to lock in a modalities package before the Bush Administration left office, they were not convinced that Schwab could still be a credible negotiator. The negotiations went on, but in the back of their minds, other participants always wondered if the Americans could deliver.

Were they right to worry? Some informed observers think the White House wanted a deal—that is why the President phoned the Indian Prime Minister—but others think the White House told Schwab to pull the plug for electoral reasons. At least nine Congressional staffers were in Geneva, and leaders of the Congress and Senate, who had been briefed by Schwab before she left Washington, were clearly watching closely, judging by the press releases they issued the moment negotiations broke down. Moreover the basic structure of U.S. trade politics does not evolve quickly, rhetoric in the Presidential primaries about “renegotiating NAFTA” notwithstanding. Changing administrations does not change the set of interests and interest groups in Washington. It was always foolish to second guess Schwab. USTR can count noses in Congress better than any Geneva delegate, and Schwab would have had a

pretty good idea of what would fly in a Doha Round package when it eventually was tabled there, in 2010, and of what else unrelated to the WTO might have to be on the Congressional table to get certain votes. Outsiders cannot judge her assessment using only the noise from interest groups—but they did.

Everyone is less expert on EU politics, but is just as prone to worry when the French President makes sabre-rattling speeches about the WTO, not understanding that such speeches are aimed at a domestic audience in France, not at negotiators in Geneva. As Mandelson said in a press conference before the meeting, the EU has a common trade negotiator, who has a mandate—and he had a majority of the member states with him. Throughout the ministerial, the two EU commissioners reported daily on the negotiations to the member states and the General Affairs Council. Mandelson also met with the representatives of EU companies present in Geneva, using them to signal to other Members that if the deal was to be endorsed in Brussels the EU needed a balanced outcome, which given the demands made of them on agriculture meant good outcomes on NAMA, services, and intellectual property. According to his blog, on Saturday July 26, he and the agriculture commissioner argued that the emerging package was the only plausible balance on the table. At the end of the meeting, he reported, the French Presidency concluded that the Council agreed not to oppose the package.

In sum, the problem with assessing assumptions about the effect of domestic politics is that they depend not on objective measures but on the perceptions of negotiators. Ministers from the leading Members were confident that they could get support for a balanced deal, but their counterparts did not necessarily trust them (see above). And those ministers in turn were not sure what to make of their developing country counterparts. In an interview shortly before leaving office in January 2009, then U.S. Trade Representative Susan Schwab indicated that India's pending election in April 2009 was proving to be more consequential than the fall 2008 U.S. election. "It turned out that we were worried about the wrong election when we were negotiating Doha," she said.

Did the emerging players contribute to the impasse?

Talk about a changing configuration of power in the world has been fashionable for many years. At first glance the Doha Round shows this new configuration at work, but the picture is misleading. Yes the three leading emerging economies were part of the G-7, but the G-7, like the G-4 before it, failed to close the deal. India and Brazil's claim to be part of this inner group was based on their role as leaders of other developing countries, not their weight in world trade. Their role provides no evidence either way on which to evaluate the significance of this *counterfactual* factor.

Brazil has been an effective and respected leader of the G-20 but its desire to maintain the unity of the club has sometimes got in the way of either pursuing Brazil's other interests, or providing systemic leadership. In July 2008, Amorim was the most active in trying to persuade others to stay at the table—he wanted to close the deal, and he thought it was possible. He expressed disbelief in the refusal of the U.S. and India to narrow their differences. He was especially frustrated by the Indians, perhaps because he had believed that the G-20 was an opportunity for Brazil to be a developing country leader. He discovered what some participants thought he should have known: India and China will not be led by Brazil.

Indeed it is not clear that Nath will be led by anyone. He loves playing to the gallery both in Geneva and in his rural constituency in Madhya Pradesh. Nath is a rich businessman, a veteran politician from a poor rural constituency, an experienced minister, and a canny negotiator. Nath was pursuing Indian interests and advancing the country's leadership ambitions as a representative of other developing countries, while simultaneously posturing for domestic consumption in the December 2008 state elections—which he lost anyway. It is a difficult balancing act. He was doing it in a way that was at a minimum theatrical, and that at least some participants thought rude and arrogant. That does not mean that everyone thinks that they understand either Nath or India's real objectives. Many believe that Nath was there in a personal role, given his political ambitions. His role in the Cabinet and the party is a puzzle: many observers think that he is in a fight with Prime Minister Manmohan Singh. The PM was said to have reached a deal in a series of phone calls with U.S. President George Bush, but Nath would not go along.¹⁹ (Others claim that at least three times Nath phoned the Prime Minister to request a changed mandate that would give him more room to negotiate.) Rumour has it that after talking to Bush, Singh subsequently told Nath that if India is alone it must not block. Whether or not that is true, it is a fact that within hours of the reported conversations, Nath was in a meeting with the G-33 where they fully backed his line.

Nath needs to be able to declare victory, and victory means a Doha Round as good for India as Indians think the Uruguay Round was for the Americans. Many participants think it would be a mistake, and futile, to attempt to coerce India. A big democracy does not want to say that it had to agree. They were forced to accept the results of the Doha ministerial, and Nath (who was not at Doha) is determined that it will not happen again. He had to fly home in the middle of the ministerial for a confidence vote in Parliament on the nuclear deal with the U.S., a deal that his leftist allies hated. He did not wish to be perceived to be selling out again. On the other hand, the ultimate red line for India is not being isolated.

Participants thought that China had changed during 2008, becoming more assertive and learning to play a broader role in support of the multilateral system. China had never before participated in anything like the G-7 in the WTO. They know they benefit from the system. They are now forced to be a major player but do not want to be out in front any more than they wish to be seen as standing in the way. China was seen as quite constructive during the ministerial. They moved in a number of areas and were dismayed that the deal did not come together.

Participants believe that China's ultimate goal is to be like everyone else. They therefore resent some of the terms imposed as part of their WTO accession, apparently some think as much as they resented the nineteenth century unequal treaties. Their defensiveness in agriculture seems to be about symbolic reversal of accession not actual interests. Cotton is not a market access issue for them with respect to the U.S. and they are major importers, but the choice between pleasing Africans and pleasing the U.S. was not hard to make. They will have to be negotiated or seduced into a sectoral negotiation, not coerced through mandatory language. On the one hand, they are especially sensitive on chemicals, since their industry is still state run; and on the other they note that the Americans are not interested in a sectoral negotiation on textiles. That sector also affects their attitude to preference erosion, where they have huge interests. Tens of billions of dollars are at stake in the American market on some

¹⁹ In a negotiation analysis framework, one might ask if Bush was trying to change Singh's perception of his resistance point, or outside option (Odell, 2009).

textile tariff lines, but they were willing to find a pragmatic solution, recognizing the pressures on the Americans and Europeans, not to mention the small developing countries. But they did publicly note how the Americans protect their own sensitivities while putting pressure on China. When forced to choose, China will support other developing countries. But its direct concerns are susceptible to traditional negotiation. China is not part of the NAMA-11, and is unlikely to subscribe to their views.

Conclusions

The collapse of the July 2008 ministerial was not the WTO's finest moment, but that failure does not suggest that a successful Doha Round outcome is impossible nor does it indicate the need for significant WTO reform. In a sense members have been talking about the future, about WTO reform, but through the lens of modalities. The result is already a new WTO. If members managed to get modalities that are acceptable to the U.S., EU, Brazil, India and China, and to LDCs, then they will have redefined the WTO. Without divisive procedural debates they will have created a multi-tier WTO with widely differing levels of obligation, and they will have done it by finding new ways engage the key players on any given issue in the negotiations while ensuring overall transparency and inclusiveness.

Everyone involved in the July ministerial was slightly surprised that they had not succeeded, given how much progress was made, even though many participants who said a deal was close wondered if the remaining gaps could have been bridged. Some analysts think that if the powerful states in the G-7 had agreed, then the rest of the Green Room would not have dared to stand in the way, but others think that a foolishly out of date view of the WTO. India never agreed, especially to the SSM, and China was still leery, especially on sectorals. The G-33 and their friends had certainly not agreed to the SSM. Argentina and South Africa did not agree on NAMA. Canada and Japan still had difficulties on "sensitive products". Cotton had not yet even been discussed. Rules was left to one side. The services signaling conference was a great success, but it was just talk, not commitments. Intellectual property was not stabilized, and one cannot be sure whether it would have blown up. Some people seem to have drawn the wrong conclusions from the EU/U.S. Blair House deal of 1992, which helped unblock the Uruguay Round. The attempt to replicate that deal by asking the same two Members to resolve their differences led to their joint paper on agriculture of August 2003, a paper that blew up the Cancún ministerial the next month and prompted the proliferation of Doha clubs as other groups rushed to ensure that their views were heard. A simple exercise of power, or bargaining among a small group of ministers, will not settle the Doha Round.

A determinant answer of how close Members were to agreement may be impossible, therefore, but one can assess the significance of the factors in an explanation. Table 3 lists all the counterfactual factors that have emerged in this paper. Recalling that counterfactual analysis cannot prove anything, but can suggest causal factors worthy of further exploration, I therefore leave readers to make their own judgment of the difference each one made to the outcome, and whether changing any factor is within the grasp of the Director-General and Members. I call them counterfactuals and not simply explanations because in each case analysts might think that change is or was possible, that the outcome could have been different. That is the biggest *counterfactual* of all.

My own conclusion is that most of these factors were not new to the WTO in July 2008, and even in combination were not enough to cause the breakdown of the negotiations. The

ministerial was an attempt to sprint during a marathon, and it failed for that reason: negotiators had more work to do before ministers could close the deal. When ministers arrived in Geneva, some issues were closed, some were stabilized, and some were open (see Appendix 2). Of the three areas of the agriculture text, market access was the most problematic. Domestic subsidies and export competition were seen as stable by mid-May, with just a few political decisions remaining. Within market access, the tiered formulas were stable, but the SSM was wide open. In NAMA, the formula coefficients were stable (with political decisions needed) but anti-concentration was not close to being stable before the ministerial. The long-standing debate on whether or not participation in sectoral negotiations in NAMA should be voluntary had clearly had not been stabilized.

Table 3 Major Counterfactuals

Domestic context	Formula approach
Emerging powers	Timing of horizontal phase
India/U.S. conflict	Issues not ripe
Distributive/integrative bargaining	Engagement of ministers
Trust	Role of Green Room
Linkage	G-7
Clubs	Agenda tiers
Black Box (uncertainty)	The package
Complexity	Paragraph 24 constraint
Single Undertaking	Doha “Development” Agenda

Even if the endgame is bargaining on the basis of interests, failure to discuss and argue first can be dangerous to self and others. Sometimes agreement or deadlock (the outcome) can be explained by the presence or absence of shared (consensual) understanding of an issue, whether or not Members agree on the implications. Detailed analysis of all the issues is beyond the scope of this paper. My analysis of one issue, however, shows that a lack of consensual understanding of the SSM contributed to the collapse (Wolfe, 2009b).

If Members fail to get modalities in the end, the claim for the necessity of WTO reform will be more plausible, but before prescribing, analysts should be sure of the diagnosis. That is the point of my consideration of all the counterfactual factors that might have affected the July 2008 outcome. It is a misunderstanding of the role of the WTO in the trading system to suggest that the Doha Round’s elaborate arches, windows and side chapels were the cause of breakdown. The tiered approach to the agenda was largely accepted. The third tier of agenda issues were not discussed in July 2008, and have not held back the round. The nine Negotiating Groups could not profitably be collapsed into some smaller set. Crafting all the flexibilities for small developing countries in NAMA has not been a source of delay. The problems were on core issues, largely among the core Members. If the plurilateral hypothesis were accepted, some G-33 Members would be hard to exclude, however far the agenda and the players were reduced—India, Philippines, Korea, Nigeria, Pakistan, and Turkey, for example—and their concerns would still be on the table. It is the leads that were the problem in this play, not the chorus, even if the leads sometimes played to the gallery.

A beast as cumbersome as the WTO cannot negotiate on the fly. If the Director-General had been allowed to keep the list of issues for ministerial decision small, the gamble might have worked. He would have been better off had he been able to exclude all the second tier issues, including services, and if the list of open agriculture and NAMA issues had been shorter. Political engagement in trade negotiations is essential, but tough decisions must be well

prepared for ministers with limited time and technical knowledge. Elements of a package have to be assembled bit by bit. The role for ministers is to bless the assemblage when the Single Undertaking is ripe. That objective remains within reach, but marathoners need patience.

Appendix 1 Doha Round ministerials

Singapore 1996	consolidated post-Uruguay Round “built-in agenda”
Geneva 1998	began to structure built-in agenda
Seattle 1999	failed to launch new round
Doha 2001	launched the “Doha Development Agenda”
Cancun 2003	stocktaking on Doha Round a gloomy a failure
Geneva 2004*	“July 2008 Framework” completes the work of Cancún
Hong Kong 2005	successful stocktaking, but fails to agree on modalities
Geneva 2006*	failure leads to “suspension” of negotiations
Geneva 2008*	fails to agree on modalities
Geneva 2009?	a regular Ministerial Conference is possible late in the year

* meetings of the General Council or the Trade Negotiations Committee attended by key ministers

Appendix 2: The July packages

July 23 Lamy report to TNC on Green Room consultations	July 26 Lamy report to TNC on “compromise numbers” [what is known to have been on the table, though not mentioned by Lamy]	July 28 Lamy report to TNC on issues other than those in the package listed on 26 July 2008.	August 11 and 12 Chairperson reports on the July 2008 ministerial results and November 13 NAMA "transparency" meeting	STATUS [as part of an overall package]
Agriculture: key elements discussed				
Overall Trade-distorting Domestic Support (OTDS) for developed countries, including AMS and Blue Box	US and EU cuts in overall trade-distorting domestic support [US OTDS 70% cut EU OTDS 80% cut]		Questions re “head room” for Blue Box product-specific commitments and the starting point for product-specific AMS commitments; likely resolved in an overall agreement	DONE
Cotton		consultations continue on cotton; now have to be solved politically	No new basis for an outcome on cotton, and it was not addressed in a substantive way	READY TO BE STABILIZED [U.S. had signalled a counter-proposal when other aspects agreed, especially OTDS]
Market access formula for developed countries	maximum tariffs for developed countries’ non-sensitive products [Cut tariff top band 70%; tariff lines above 100% only for sensitive products +1% allowance with payment as per text.]		Top band 70%	DONE
Sensitive products (number and quota expansion)	how many developed country sensitive products shielded from full tariff cuts and size of	consultations continue on creation of new TRQs, thus whether	some Members outside G-7 for whom July 25 approach would have required further discussion.	CHASM ON FORMULA TRQ CREATION

	TRQs for these products [Developed country number sensitive products 4% +2% with payment as per text TRQ expansion 4% of domestic consumption]	new sensitive products possible; now have to be solved politically	No resolution on whether there could be new tariff quota creation.	COMPROMISE IN VIEW OPEN ISSUES AT THE MARGINS
Special products (SP)	SP (shielded from tariff cuts but without quotas), including how many, size of cuts and whether some not cut [One tier of 12 % of tariff lines as the SP with an average overall cut of 11%]	Discussion of various TRQ options	G-7 and Green Room discussion well reported on % of SP tariff lines , % that would not take a tariff cut and overall average cut for them	DONE?
Special Safeguard Mechanism (SSM)	[SSM for above bound rate trigger is 140% of base imports; remedy is applicable with a ceiling of 15% of current bound tariff of 15 ad valorem points, whichever is the greater. That remedy is not normally applicable if prices are not actually declining Maximum number of tariff lines for above bound 2,5% in any year]		unbridgeable differences within the G-7 regarding the triggers for breaching the pre-Doha bound rate. Questions of how far above that rate and how often could not be a source of any convergence in the absence of any common ground on the fundamental issue of what conditions would need to be met to breach it in the first place. Note Chairperson ignores July 28 Version 2 and July 29 Version 3, as if they did not exist.	CHASM - General principles, triggers and remedies close to agreed - No convergence on triggers or remedies for going above pre-Doha Round bound rates
	whether the present special safeguard (SSG) should be phased out [Developed countries SSG to be eliminated over 7 years. No rate above UR bound rates during phase out]	developing countries currently eligible to use SSG allowed to keep it for 2.5% tariff lines. For developed countries SSG could be phased out.	G-7/Green Room discussion well reported	PROBABLY DONE

Agriculture: Second tier issues discussed	Chairperson technical consultations on other issues			
preferences	preference erosion	broad agreement that approach similar to NAMA	same understanding as far tropical and diversification products would have been reflected in preference erosion modalities. Problems remained on sugar	DONE [but linked to Bananas]
tropical products	tropical products	broad agreement on the list of products and convergence on how these would be treated (the accelerated and deeper tariff cuts)	list of tropical and diversification products essentially stabilised; consensus possible around a formulation on treatment. So-called “overlap” between tropical products and preference erosion product lists would have been resolved	DONE
in-quota rates	bound in-quota tariffs (legally bound limits on tariffs for quantities within quotas)	broad understanding that those below 5% will go to zero, the rest will have a 50% cut but will also be subject to a maximum level, to be agreed.	I believe we had a sound basis for concluding, based on going to the lower of a threshold or a formula cut with a single tariff rate for all the tariff lines covered by a quota.	DONE
tariff simplification	converting most if not all tariffs to simple % of price	consultations continue; now have to be solved politically	no new basis for resolution of tariff simplification	NOT STABLIZED
tariff capping	[Developed country tariff lines above 100% only for sensitive products +1% allowance with payment as per text.]		output from the G7 and the Green Room discussion has been well reported.	NO CONVERGENCE

export competition		all issues settled except “monetization” — selling food donations in order to raise cash for nutritional or other purposes.	In the overall context, specific and balanced outcome on the outstanding elements on food aid, export credits, STE’s and phase out of export subsidies	DONE
	developing country sensitive products	“array of alternatives” to be included in the revised draft	a revised tripartite structure could have been a basis for an agreement in my view.	PROBABLY DONE
		Treatment of LDCs: an understanding that the text will be identical to that in NAMA	would have been resolved (as sought by LDC’s themselves) on an essentially equivalent basis to NAMA	DONE
		OTDS for developing countries	I believe we had developed a basis for agreement	DONE
		Export prohibitions and restrictions: transparency provisions will be improved	a fine-tuned text that would have been acceptable to Members	DONE
		Tariff-quota “underfill mechanism”: Some agree to discuss why quotas are not fully used but do not want to be obliged to change the way they allocate quotas	I believe we had a basis for agreement on the outstanding issue of application to developing country Members	DONE
[ethanol never mentioned officially]				DONE? Brazil came close to an agreement with the EU

[bananas never mentioned officially: not part of Doha Round, but linked to the overall deal]				agreement between the EU, the U.S., Latin American banana exporters, and the ACP group that was dependent on the package
Key issues in NAMA:				
Formula and Flexibilities [Principle of a Swiss formula had been accepted in Hong Kong]	tariff-cutting formula and “flexibilities” for developing countries [Developed coefficient 8 Developing country coefficient and flexibilities 20 7(a)(i) 14% of tariff lines 16% volume of trade 7(a)(ii) 6.5% of tariff lines 7.5% volume of trade 22 10%/ 5% 25 0]		Very close to July 25 Transparency” meeting November 13 Venezuela: awaiting information to justify request for special treatment. South Africa: Members sympathetic to special treatment. Argentina: will provide new documentation on proposed flexibilities.	DONE, EXCEPT ARGENTINA STILL OBJECTS
Anti-concentration	Provisions to prevent entire sectors being shielded from tariff cuts [Anti-concentration clause: 20% of lines, 9% of value]		July 25 Transparency” meeting November 13 Not mentioned?	PROBLEMATIC [principle that whole HS chapters should not be excluded was agreed in the July 2004 Framework]

Sectorals.	wording on provisions for free or freer trade in entire sectors ["... the Members listed in Annex Z have committed to participate in negotiating the terms of at least two sectoral tariff initiatives likely to achieve critical mass. ...Any developing country Member participating...will be permitted to increase its coefficient ... "]	members agree that this will be voluntary and are working on new wording	"the Members listed in Annex 7 have agreed to participate in negotiating the terms of at least two sectoral tariff initiatives of their choosing, with a view to making them viable." "Transparency" meeting November 13 China said pressures to participate put it in a very difficult position;, but could live with the previous Chairperson's paper dated August 2008.	CHASM, BUT WELL ENOUGH UNDERSTOOD FOR A BARGAINED RESOLUTION
Second tier issues in NAMA	Chairperson technical consultations on other issues			
preference erosion, including those disproportionately affected	preference erosion	[Non-reciprocal preferences: more products added to the US and EU lists of products to be given preferences]	convergence among key concerned Members on a compromise; rejected by one Member "Transparency" meeting November 13 new members adding themselves to the list of those "disproportionably affected" by a possible solution.	OPEN
	issues concerning RAMs who have introduced reforms as part of the membership agreements [RAMs do an overall average cut of 10% with a total number of 13% of tariff lines Within that tier 5% of tariff lines take a zero cut]	opinions differ on whether RAMs should have three or four years longer than others to implement the agreement	Close, but no convergence "Transparency" meeting November 13 US and EU reject re-opening accessions; RAMS insist on additional flexibilities.	OPEN
Small and Vulnerable economies (SVEs)		progress has been made and convergence is close. The remaining political question is the target	Open question is target average in the first band and second bands. [problem is linkages to other issues] "Transparency" meeting November 13	COMPROMISE IN VIEW

		average tariff level in the top two bands	current text is "stabilized" if members accept the upper figures in the ranges now in brackets in the July 2008 10 text.	
			convergence on Members with low binding coverage (paragraph 8 of the July 2008 text)--achieved prior to the start of the Ministerial	DONE (JOB(08)/84)
Duty Free/Quota Free access for LDCs is also being taken up as part of the negotiating group Chairpersons' processes		revised wording will ensure meaningful market access (among the 97% of products that countries will make duty-free and quota-free)	Convergence among proponents and the Members principally affected, on language on Market Access for LDCs. ...specific modalities language in Annex B.	DONE
		Product coverage [a longstanding issue]	convergence to remove July 2008 10 square brackets, but consultations were limited and one Member continued to maintain their objection.	DONE
			Transparency” meeting November 13 Non Tariff Barriers text is "stabilized" pending one exemption (Cuba)	

Services				
			Services negotiating group met July 23 to conclude previous work on “elements required”—that is, modalities, though not explicitly—for the services negotiations	DONE
	[Not mentioned]	services signalling conference on 26 July 2008 an important step towards getting a sense of what this part of the final Doha Round agreement might look like	Lamy issued a separate report on the signalling conference	DONE [not part of modalities]
Intellectual property				
[not mentioned]	[Not mentioned]	Norwegian Foreign Minister Støre held consultations.	No further report	NOT STABILIZED

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