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“Either he’s dead, or my watch has stopped”: The WTO’s Nairobi Ministerial Conference must be clear about the future of the Doha Round

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American comedian Groucho Marx was no watcher of trade policy. Although dating from the 1930s, a modern-day trade policy cynic or realist (depending on one’s point of view) might think the Marx quote in the title is an apt comment on the Doha Round of trade negotiations. This Round was supposed to be a sprint. The original timeframe, set out in November 2001, was three years – very short by the standards of multilateral trade negotiations. It has turned into a marathon, still technically running after nearly fourteen years – although some observers, particularly in the private sector, mentally consigned it to oblivion some years ago. At the Nairobi summit later this year, WTO members need to agree whether there should be a plan for the marathon to end – or whether they should let runners die of exhaustion.

The WTO is currently looking forward to its Tenth Ministerial Conference in Nairobi in December 2015. The main focus of preparations to date has been on resolving the three core Doha issues of Agriculture, Non-agricultural Market Access (NAMA) and Services, even if at a reduced level of ambition. However, at the end of July 2015, WTO Director-General Roberto Azevedo reported that “...there are still huge differences in expectations. The red lines don’t overlap”. He called for a step-change in flexibility and political engagement from September onwards.

The omens for Doha at the Nairobi conference do not look good. Time is now short and the main players show little sign of compromise. The United States urges WTO Members to adapt expectations to reality or confront the prospect of definitive failure. Others, including China, adhere to the well beaten path which the negotiations have trodden since the outset. We may yet be pleasantly surprised but, at present, a significant outcome on Doha looks like a long shot.

This does not mean that the Nairobi is doomed to failure. On the contrary, the first Ministerial Conference in Africa - and one which also marks the twentieth anniversary of the WTO - must and will surely be a success, even if a qualified one. Putting Doha aside, there are already enough potential building blocks. The updated Information Technology Agreement (“ITA2”) may be implemented by December; Kazakhstan may well have ratified its accession protocol and be the newest member of the club; negotiations on the accession of Liberia may have been concluded; an Environmental Goods Agreement may emerge; without doubt progress will be recorded on some issues of interest to Least-developed Countries; and there is a possibility that some agreement on export competition in agriculture could be carved out of the Doha negotiations. These are all potentially significant outcomes.

Even with a respectable outcome at Nairobi, the Doha conundrum will remain and has the potential to turn sour. Indeed, the availability of these, mostly non-Doha, achievements may perversely mitigate against further progress on the Doha core issues before and at Nairobi. The question then is what does the future hold in store for Doha itself? Three initial scenarios seem to present themselves.

The first is that the WTO membership re-commits itself in Nairobi, as it has at past Ministerial Conferences, to full implementation of the original Doha mandate. It seems unlikely that the United States and some other developed countries would agree to this. In their eyes the mandate, and much of the work to date, have been overtaken by events and are no longer viable as a basis for further work. The second scenario is that the subject would largely be ignored. Although this might be favoured by some developed countries, the bulk of developing countries could not countenance it and would undoubtedly object. Given the history, this scenario seems inconceivable.

This leaves a third scenario which would essentially amount to a time-honoured, classic WTO fudge. The exact form this might take is not clear. Possibly a formulation could be found which provides for work on Doha to continue, while repeating or strengthening the exhortation from the Chairman's concluding statement at the Eighth Ministerial Conference in 2011 to explore different negotiating approaches. Another option might be simply to pass the ball back to the General Council to find a way forward through a new work programme.

The future of Doha does not look rosy under any of these scenarios. The first two would lead to an impasse and effectively pass the death sentence on the Round. The third – the most likely – would leave a mess. What would the future hold for WTO negotiations in such circumstances? Post-Nairobi, it would be normal in Geneva to begin by arguing over what precisely any language relating to Doha in the Ministerial Declaration meant. Since Nairobi would not have dealt with the underlying problems, the old splits would quickly re-emerge. Attempts by some to revive meaningful negotiations along the traditional Doha track might well be met by studied indifference by others. No genuine engagement would be possible. The outlook for Doha would then be a lingering death. The marathon runners would eventually collapse from exhaustion.

A further and stealthier danger is that this would poison the atmosphere and have knock-on effects on other types of negotiation. A lingering Doha stand-off might well reduce the chances of attracting "critical mass" to plurilateral initiatives such as the putative Trade in Services Agreement and inhibit the development of similar initiatives in other areas.

Those who feel that it is high time for the WTO to move on to "twenty-first century" issues more relevant to modern business would also be disappointed and further disillusioned. The bulk of the WTO membership would certainly not agree to the "old" issues contained in the Doha Round - issues such as Agriculture which they still regard as pivotal – simply being brushed aside. The upshot would be that the WTO's negotiating agenda would be in limbo, calling even further into question the WTO's viability as a negotiating forum.

This would be seriously bad news for the global trading system and the world in general. Against the background of (sometimes) competing regional initiatives, the ongoing slowdown in the growth of trade and increasing worries about the health of the global economy, negotiating paralysis in the WTO amid a rancorous atmosphere would be a cause for major concern. It would compound the possibilities of increasing protectionism leading to a downward spiral.

It is well within the bounds of possibility to achieve respectability at Nairobi even if all the Doha Round core issues cannot be cracked. However, unless at least some understanding is reached on the way the Round is to be handled post-Nairobi, this open sore will continue to fester and infect the surrounding tissue. Political and economic leaders would do well to factor in the risks involved and find a way to avoid the worst. In the event that it does not prove possible to crack the core Doha issues by or at Nairobi, there are two elements of an outcome which are essential to chart a credible way forward.

First, there must be genuine commitment to finishing the Round in some form or other within a reasonable timeframe. Those Members who would rather simply consign Doha to history should recognize that, without this commitment, the WTO is finished for the foreseeable future as a negotiating forum. They may think that they can achieve what they want through regional initiatives. This is wishful thinking: experience is showing that the big trade issues are little easier to resolve regionally than multilaterally.

Secondly, there must be openness to beginning to discuss – not yet negotiate – a future WTO trade agenda which takes greater account of the needs of modern business. Those Members who would hold everything (including mere discussion) hostage until Doha is delivered should recognize that, in doing so, they are driving others to by-pass the WTO. Since the WTO is the only forum in which all countries, including many small developing countries, have a voice, this strategy is counter-productive. It can only result in further marginalisation.

Frustration over WTO negotiations – and Doha in particular - has bred indifference in many capitals. Other forms of trade negotiation have been prioritised. Understandable to some extent as this may have been in the past, the risks to the global trading system are now increasing all the time. It is overdue for senior policy makers to look for compromises, find a way through Doha, and chart a viable course for the WTO's future agenda. Without such action, the trading system will become increasingly fragmented and fractious, raising the spectre of serious protectionism and blighting business development.