The world trade regime, the WTO and large scale crises: Perspectives after the Pittsburg G20 Summit

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Introduction

One year after the collapse of Lehman Brothers and three years after the start of the food and commodities crisis, time seems ripe to make a provisional assessment of the resilience of the open trade policies to this severe downturn, and to draw the main lessons.

In attempting to answer this question, we need to make a distinction between the "world trade regime" and the World Trade Organization (WTO). The former consists in all the multilateral, plurilateral and unilateral trade policies. Sometimes such policies amplify WTO weaknesses. But, sometimes they amplify WTO disciplines, as during the past year (see section 1). The WTO, with its key disciplines and its dispute settlement mechanism, is the undisputed legal skeleton of the world trade architecture. But, it is in a great need to adjust to a faster-moving, often chaotic, world trade regime.

The distinction between the WTO and the world trade regime is even more crucial since the designation of the G20 as the "*premier forum*" for the international economic cooperation between the largest world economies [Pittsburgh Summit communiqué]. Korea which holds the G20 Chair for 2010 (and Canada the host the G20 in Spring) will have the major task to develop this new architecture—weaving together the G20, the WTO and the other trade-related international institutions.

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The paper is organized as follows. Section 1 argues that, during the last year, the world trade regime has shown an unexpected resilience to a economic downturn of a magnitude unknown before. Section 2 explains why such a positive conclusion is not shared by all the observers. Section 3 suggests four concrete proposals that would improve the resilience of open trade policies, in particular during the perilous exit period of the current crisis. Section 4 stresses the fact that any progress in the world trade architecture faces a political constraint which is likely to stay with us for a long time—the "iron law of thin majorities" (the vast majority of the governments of the largest economies depend from very thin majorities). Section 5 examines the balance to be struck between designing stricter international disciplines and building robust institutions when improving the long term resilience of the world trade regime to large scale crises. Section 6 draws some conclusions for the Doha Round and the post-Doha Agenda, emphasizing the key role of Korea and Canada in the G20 context, and the assets of these two countries when playing such a role.

1. The good news: the (unexpected) resilience of the world open trade regime

The section argues that the world trade system has shown an unexpected resilience to the tidal waves of the three last years [Messerlin 2009]. One year ago, most observers were expecting a massive surge of tariff increases from the roughly 20 largest developed, emerging and developing economies which are applying tariffs at a (much) lower level than their levels bound at the 1995 Uruguay Round (see Table 1, section B). This surge did not happen, except in very few countries (Argentina, Indonesia).[2]

Meanwhile, substantial liberalisation has been done. Many barriers to exports have been reduced or eliminated (economic analysis shows that barriers to exports are barriers to imports). Despite a severe downturn, a key emerging economy (Mexico) has launched a swiping unilateral liberalisation with respect to the world, completing the preferential trade agreements that Mexico has already with the U.S. and the EC.

It is thus too early to "cry wolf"—such a resilience of the open trade regime is good news. But it is also much too early to declare victory for several reasons.

[2] These countries have adopted harmful trade policies before the recent crisis, hence for reasons unrelated to it.

First, this unexpected resilience comes from the world trade regime (the practices), not from the WTO. Countries with "tariff water" (bound tariffs higher than applied tariffs) did not align their bound tariffs to their applied tariffs at the WTO—this remains a key issue of the Doha negotiations (see section 6). However, the fact that the trade policies of the largest economies are *de facto* enforcing the key WTO notion of "value of binding" (no gap between applied and bound tariffs) is a promising sign in the long term. And, it may significantly change the dynamics of the Doha negotiations in the short term (see section 6).

Second, key emerging and developing economies have faced a domestic downturn (much) less dramatic than the downturn faced by the developed economies, or they seem to rebounce more rapidly (see Table 1). In other words, their virtue has not been tested as harshly than the virtue of the industrial countries. For instance, China and India are exhibiting growth rates of 7.9 and 6.1 percent respectively (second quarter 2009, percentage change on year ago) [The Economist September 25, 2009]. These growth rates are (much) higher than those that the U.S. was enjoying during the "golden" 1990s and 2000s, and three to four times the EC growth rates of these decades.

Third, developed countries continue to show negative or very low growth rates, while they may have exhausted the leverage of macroeconomic policies [Eichengreen and Irwin 2009]. In such a context, recent trade barriers, such as the U.S. 35 percent import duties on tires from China adopted under the transitional product-specific safeguard (TPS) included in China's WTO protocol accession, are worrisome for two reasons. First, they may open the gate to new cases (shoes?) in the U.S. since it is much easier to impose measures under the TPS than under other WTO safeguards.[3] The TPS provision is scheduled to be eliminated in 2014, hence will be enforceable for the whole duration of the crisis in the U.S. (see section 4). Second, the "trade-diversion" TPS provision means that, as soon as one WTO Member takes a TPS measure, other Members could enforce similar measures at almost no cost in terms of investigation, prior notification, input from Chinese parties, etc. As a result, it may be ultimately much more difficult than expected for Chinese firms to shift exports to non-U.S. markets—fuelling frustrations in future G20 Summits.

[3] As illustrated by the fact that the petition was tabled April 20th 2009, and President Obama announced his decision September 11th 2009—a record time in such procedures. China was particularly frustrated by not even getting a few days of discussions with the U.S. in September.

Table 1. Tariff water and the recent downturn

WTO Members	Industrial tariffs: simple average bound tariff (%)	Industrial tariffs: simple average applied tariff (%)	Industrial tariffs: average tariff water [a]	GDP growth rate [b]	GDP growth rate [c]
Section A. The 8 largest WTO Members without "tariff water" [a]					
EU27 [d]	3.9	3.8	0.1	-4,7	-0,5
United States	3.3	3.2	0.1	-3,9	-0,7
Japan	2.4	2.6	-0,2	-6,4	3,7
China	9.1	9.1	0.0	7,9	--
Canada	5.3	3.7	1.6	-3,2	-3,4
Taiwan	4.8	4.6	0.2	-7,5	--
Hong Kong	0.0	0.0	0.0	-3,8	13,9
Macao	0.0	0.0	0.0	--	--
All Section A	4.1	3.9	0.3		
Section B. The next 26 largest WTO Members with "tariff water" [a]					
Brazil	30.8	12.5	18.3	-1,2	7,8
India	36.2	11.5	24.7	6,1	--
Korea	10.2	6.6	3.6	-2,5	11,0
Mexico	34.9	11.2	23.7	-10,3	-4,4
Australia	11.0	3.8	7.2	0,6	2,5
Turkey	16.9	4.8	12.1	-7,0	--
Indonesia	35.6	6.7	28.9	4,0	--
Norway	3.1	0.6	2.5	-4,8	-5,0
Saudi Arabia	10.5	4.7	5.8	4,5	--
South Africa	15.7	7.6	8.1	0,3	-3,0
Argentina	31.8	12.3	19.5	-0,8	1,1
Thailand	25.5	8.2	17.3	-4,9	9,6
Venezuela	33.6	12.7	20.9	-2,4	--
Malaysia	14.9	7.9	7.0	-3,9	--
Chile	25.0	6.0	19.0	-4,5	-1,4
Colombia	35.4	11.8	23.6	-0,6	2,7
Singapore	6.3	0.0	6.3	-3,5	20,7
Pakistan	54.6	13.8	40.8	2,0	--
Israel	11.5	5.0	6.5	0,1	1,0
Philippines	23.4	5.8	17.6	--	--
Nigeria	48.5	11.4	37.1	--	--
Egypt	27.7	9.2	18.5	4,2	--
NewZealand	10.6	3.2	7.4	--	--
Peru	30.0	9.7	20.3	--	--
Kuwait	100.0	4.7	95.3	--	--
Bangladesh	34.4	14.2	20.2	--	--
All Section B	27.6	7.9	19.7		

Source: WTO Secretariat, Trade Profiles (April 2008). The Economist (September 26, 2009).
Notes: --: information not available. [a] difference between the average bound tariff and the average applied tariff (average "tariff water"). [b] percentage change on year ago, second quarter 2009, except if specified. [c] percentage change on previous quarter, annual rate. [d] for growth rate figures, eurozone.

Last, the food and commodities crisis preceded the downturn crisis. Protectionist measures adopted during the former crisis (export restrictions) have been eliminated during the latter. In other words, the liberalization undertaken during the downturn has notably consisted in

correcting the protectionist drift introduced only eighteen months before. Such a swift shift offers the best ever illustration of the intertemporal inefficiency costs generated by the volatility of protectionist measures. But, the ongoing crisis seems unlikely to end within the next two years, meaning that we will not benefit from such a happy turn of events soon.

2. The missing debate

The positive view on the last year described above does not reflect a consensus. For some observers, the slippage in protection is big enough to raise serious concerns [Evenett 2009] while other observers have significantly reduced their initial concerns—from a "significant slippage" [WTO Report March 2009] to "sand in the gears" [OECD-UNCTAD-WTO Report September 2009].

Why such a wide range of opinions? Of course, it flows from the many intrinsic difficulties of an accurate monitoring of the ongoing changes. Such difficulties begin with collecting the protectionist measures. For instance, it is (much) harder to get the full range measures aiming at reducing domestic distortions (for instance, between large and small firms) than to collect tariff changes. There are also methodological difficulties. For instance, one would need to pay much more attention to the procedure consisting in systematically adding the count of measures at one point of time. Such an addition ignores the fact that barriers are often substitutable, hence that one barrier works at one stage of the crisis while another one works at a later stage. In such a case, counting two measures overstates the surge in protection—the proper count should be one measure at each stage (but the measure is different).

That said, there is a more substantial reason for such a wide range of opinions. It is that there has been no serious debate on the benchmark to be used for qualifying a possible "slippage" to protection.

A first possible benchmark would be the complete absence of new protectionist measures. Supporters of such a choice invoke the Washington and London G20 communiqués which say: "*We [..] reaffirm our commitment to fight all forms of protectionism and to reach an ambitious and balanced conclusion to the Doha Development Round*" [London Summit communiqué] (own emphasis).

Such a benchmark is clearly too stringent. It is doubtful that it reflects the true state of minds of the G20 leaders who, as shrewd politicians, are well aware that they should be put some "oil in the gears" if they want to avoid serious political clashes at home.

Such a benchmark is not even consistent with the traditional GATT-WTO approach which has recognized political constraints since the GATT birth, as best illustrated by Article XIX on safeguard or Article XVIIIB on balance of payment in the GATT text. Finally, such a benchmark makes difficult to take fully into account liberalization measures, hence is at odd with economic analysis which gives to relative prices (prices of exports and imports) the key role.

Another—better to our view—benchmark would be an indicator of the changes in trade barriers "routinely" implemented every year in the recent past, and to assess the extent to which changes in trade barriers occurring in the ongoing crisis have deviated from this "routine" indicator.

An obvious first component of such a "routine" indicator is the sheer number of tariff increases and decreases. A first attempt to provide such an estimate suggests a routine of 4 percent of tariff line changes every year [Bouet and Laborde 2009]. This figure is high enough to suggest that what has happened during the last twelve months remains within the routine limits. Of course, a similar information would be needed for all the other key barriers to trade. It is relatively easy to gather for key barriers on imports, such as antidumping or safeguard measures [Bown 2009, van Grasstek 2009]. But, it is more difficult to collect a complete information on export restricting measures, and such an information is largely missing for "behind-the-border" barriers, such as subsidies or public procurement—to take two types of measures often used during the past year.

3. Proposals for improving resilience of open trade policies in the short term

Crises are very sensitive to panics, and panics thrive on imperfect information. The above discussion on benchmarks should thus not be seen as a discussion among trade specialists, but as a serious matter of public policy aiming at limiting the risks of panics and uncontrollable situations. In this perspective, the above discussion sheds some light on what should be done

as soon as possible for keeping and improving the resilience observed during the last year. Two proposals seem natural candidates.

- Proposal 1. There should be a major effort to calculate the routine number of tariff changes during a representative sample of years (those under shiny growth and those under crises of various nature, magnitude and geographical scope) and of changes in other import barriers, such as antidumping, anti-subsidy, safeguards, etc.
- Proposal 2. A similar information should be made available, to the best possible extent, on changes in export barriers (export quotas, duties and credit regimes) and in key trade-distorting behind-the-border policies (public procurement, domestic production subsidies, technical barriers, etc.).

Such indicators should be provided on a country and sector basis in a form easily usable by the ordinary citizens of the country. Providing "user-friendly" indicators is essential for disciplining countries. The international option of "shaming" countries adopting poorly conceived policies is often evoked. But, the international trading community (starting by the WTO) would clearly hesitate to implement it on time for good or bad reasons. By contrast, citizens of such countries may be eager to use such an information as rapidly as possible in order to get a better informed public debate on the policy of their own country.

Proposals based on counting measures are clearly insufficient (they even could be misguiding in some cases, as argued below in the case of antidumping). It is thus indispensable to get a "quick" economic assessment of the trade barriers introduced. At a first glance, such a task seems so vast that it seems out of reach. The situation is not so bad for two reasons.

First, there is no reason to undertake such a task for the whole universe of trade barriers. There are only a few key barriers to monitor with special care because they are likely to be the first and/or most used components of a protectionist wave. Best illustrations that come to the mind are antidumping, safeguards or production subsidies.

Second, some crude criteria could be developed for a rapid assessment of the harmfulness of those instruments put under "special" scrutiny. For instance, antidumping cases aim at fragmenting world markets and at establishing collusive markets that would normally be competitive. Some new antidumping cases in products close to cases lodged during the last 20 or 30 years may mostly aim at ensuring that the downturn will not induce firms to breach the existing collusive agreements—in short, that the cartel-like disciplines generated by the

previous antidumping measures will not collapse. They simply reveal the true practices that were going on, quietly and behind the scene, before the crisis. The extent to which such "new" antidumping cases deteriorate notably the situation existing in such markets is thus questionable—this is a case where a mere counting could create devastating panics under the form of a race to antidumping actions. The truly worrisome sign of increased protection would be a spreading of antidumping cases to goods never involved in past antidumping complaints. Only, such cases would deserve "special" scrutiny.

This discussion suggests then two more proposals.

- Proposal 3. Establish a list of crucial trade barriers—those which have the highest likelihood to generate wide (for instance, recent safeguard measures tend to have a large product coverage) and/or long term (for instance, antidumping measures tend to last long, once adopted) distortions for the ongoing crisis.
- Proposal 4. Develop crude but fast techniques aiming to split the trade barriers under monitoring into those expanding protection and collusive behavior into new products and those "merely" re-enforcing existing protection and collusion.

The list of trade barriers to put under special scrutiny cannot be decided once for all because trade barriers are substitutable to each other to some extent. Hence, such a list may evolve over time, even during the same crisis. For instance, at the beginning of the current crisis, many observers believed that tariff increases were the indicator to scrutinize carefully. But, subsidies and public procurement have played a much bigger role in spreading the impression of a surge in protection. Such a role may vanish in the coming years—subsidies may be much less fashionable when the Treasuries will face increasing budgetary constraints.

The tasks required by these four proposals require skills and means that are not available in one international institution. For tariffs and import quotas, the WTO has clearly the expertise and access to information needed. It may also be the case for export quotas and duties, if the practice and/or legal language of the WTO concerning these instruments is beefed up. But the WTO has no expertise in export credit regimes, in export or production subsidies and in public procurement, contrary to the World Bank, the OECD, the Export-Import agencies (perhaps the Bank of International Settlements in the case of the financial sector) etc.

This is where efficient post-Pittsburgh G20 Summits could change dramatically the situation. Before, there was no international institution capable to decide to undertake such tasks in an

efficient way. As a result, no initiative was taken, or the most affordable initiatives were taken by several institutions generating useless duplications. Since Pittsburgh, it is possible that the G20 (or some *ad hoc* G20 sub-committee) will take the decision, and assign the tasks among the various available international institutions based on their skills, capacities and access to information.

4. Facing the "iron law of thin majorities"

Exit is often the most dangerous phase of a crisis because it is the time where the pains and gains accumulated during the recession are netted out, making fully visible the stark contrast between net losers and winners, hence generating long term bitterness. Such a phase may be difficult even in countries where growth has been severely cut only for a few months. The long term impact of brutal short term decelerations is hard to assess. It could be substantial in economic terms. One key lesson from the Japanese Lost Decade [Kaji 2009] is that a great crisis generates relatively rapidly a severe attrition of competition in certain markets of goods and services, as it may already be the case in financial services. The long term impact of brutal short term decelerations could also be substantial in political terms. Bitter memories of what happened may fuel a loss of confidence in markets efficiency, generating a political establishment warier about open trade, and more generally, markets.

As of today, macroeconomic analysts expect that the U.S.—the largest badly hit economy—will be back on its "potential GDP" growth path in a few years from now—around 2014 [Pisani 2009]. If correct, this simulation implies that all the next key elections in the largest industrial democracies (French and U.S. Presidents, French, German, Japanese and U.S. Parliaments) will occur before the final end of the recovery—hence possibly under still serious political stress. The exact intensity of such a stress will depend of the path of the recovery: would it be V-, U- or W-shaped? The most frequent scenario seems a W-shaped curve (a recovery followed by a smaller downturn, before the final recovery) which could be very stressing from a political point of view because its double-dip could damage once again the return to confidence.

This scenario deserves a important remark. It takes the pre-crisis situation as the benchmark. Strictly speaking, this is not correct because the potential GDP path before the crisis was "doped" by the financial excesses of the late 1990s and 2000s, compared to what would have

occurred in a "normal" world. However, calculating a "financial excesses-adjusted" potential GDP path is far beyond our capacities, meaning that we have to live with this error as an unavoidable additional cost of the excesses of the last decade or so.

The same observation should be made from a trade policy perspective. The financial excesses of the 1990s have generated huge distortions in markets, inflating some sectors at the expense of the others. During these years, few observers were paying attention to such distortions, and to their discriminatory impact on trade flows. For instance, exports of SUVs expanded at the detriment of exports of smaller cars, making some countries more successful (and others less successful) that they should have been with prices and incomes less doped by financial excesses. Unfortunately, as in macroeconomic matters, it seems impossible to create the "counterfactual" of financial excesses-free economies. But, at least, trade analysts should be very careful when evoking today trade-related discrimination based on the situation prevailing a year ago. For instance, the strong decline of the demand for large cars since late 2008 is not (entirely) discriminatory—it simply reflects a move towards a more healthy situation which should have prevailed years ago. This point is important to keep in mind if only because the carmakers of large cars will certainly argue that the recent evolution is entirely discriminatory, hence possibly ask for countervailing protectionist measures.

That said, waiting for 2014 for the return to normality makes the "iron law of thin majorities" a tough constraint. This law reflects the observed fact that, since the late 1980s, all the industrial democracies happen to share the same political trend—increasingly thin majorities support the elected governments, independently from the political color [Messerlin 2007]. Whatever the reasons for such a similar evolution are, the final result is that narrowly elected governments are very likely to be weaker for resisting to lobbies than they used to be before the 1990s.

The "iron law" has two dimensions. First, increasingly tiny lobbies may succeed where they would have failed twenty years ago, a possible explanation of the difficulties to get a success in the Doha Round in July 2008. Second, the length of time during which governments could successfully resist to pressure groups may be shorter—a dimension very relevant for the topic of this paper since it endangers the long term resilience of trade policies to large scale crises.

That said, two lessons could be drawn from the "iron law". First, waiting for "better" times (stronger majorities) may be illusory. For instance, the current U.S. Congress may be hostile to or uninterested in trade issues. But, if the "iron law" continues to be verified, hoping that the 2012 U.S. elections could change the situation is illusory because they will deliver another tiny majority, hence only slightly less hostile to or uninterested in trade matters. In short, procrastination is not an option—a key point to keep in mind when looking at the G20 role.

The second lesson to be drawn from the "iron law of thin majorities" is that one should be very careful when designing medium or long run initiatives. There is a need to choose initiatives that require the lowest amount of political capital, since such a capital is limited. Of course, such a conclusion applies to initiatives to be tabled at the G20, as well as to those to be tabled in the WTO or in other trade-related international forum. In short, agility and flexibility should drive the initiatives to be taken.

5. Stricter international disciplines and robust domestic institutions: a key balance

The section examines the initiatives which would have the best chance to enhance the long run resilience of the world trade regime to large scale economic crises. It starts from the observation that there is currently a tendency to over-invest in stricter international disciplines and to under-invest in robust domestic institutions that appear critical for an effective enforcement of strict international disciplines. Indeed, the current crisis provides some evidence that large scale economic crises can easily circumvent or wipe out international disciplines conceived during a quieter period (often many years before the burst of the crisis) and that international institutions are robust only as long as they can rely on the support of robust domestic institutions.

The section assumes that large scale economic crises are not frequent (say, they occur every two to three decades). This assumption is important because it gives a time span long enough to find the best balance between designing stricter disciplines (there will be enough time to agree on disciplines more substantive than those existing today) and building robust domestic institutions (there will be enough time to design them and they will have enough time to establish their reputation).

Designing stricter disciplines

The current crisis has witnessed the proposal of many stricter disciplines to be implemented in case of large scale economic crises. For instance, Dhar and alii [2009] have tabled a protocol organized in five sections (general principles, non-discrimination, standstill, subsidies and technical barriers to trade) and laying out 28 specific commitments. These commitments would be signed only by the G20 members (though non-G20 members could join them) and they would be "exceptional" to the extent that they would lapse after a pre-determined amount of years (for instance, two years).

Subsidies offer a good example for discussing such proposals. Since mid-2008, industrial countries and the richest emerging economies have granted huge subsidies to the banking and car sectors. The recent evolution of these subsidies is unclear. While some banks are speeding up the reimbursement of the subsidies they received, a notable share of subsidies (public guarantees to banks, production subsidies to carmakers) is currently being extended to next year, despite increasingly distressed public budgets. As all the subsidizing countries are signatories of the Subsidy and Countervailing Measures (SCM) Agreement of the Uruguay Round, would that mean that a stricter SCM WTO Agreement should be negotiated?

The current situation in the EC offers a compelling illustration that a stricter SCM Agreement is far to be sufficient. The EC has a system of notifications, transparency and standstill disciplines for subsidies that is so precise and binding, and so strongly linked to the core competition provisions of the Treaty establishing the EC, that it is hard to believe that a similar agreement could ever be achieved at the world level during the next thirty years. Despite such a legal arsenal, EC anti-subsidy disciplines have been extremely disappointing during the past year. Subsidies to carmakers and banks were routinely notified by the EC Member States (ECMS). But, there is no clear indication that, during the examination of the notified subsidies by the Commission, significant changes have been requested by the Commission and introduced in the initial packages tabled by the ECMS. And, the whole mechanism ended up in a blanket acceptance by the European Commission of almost all the notified subsidies. It is only very recently that the Competition Commissioner (whose five-year term ends in a month or so) begun to show some willingness to block mergers and to require rescued banks to restructure [International Herald Tribune 17 October 2009].

How can we explain that the well-oiled (relatively successful before the ongoing crisis) EC anti-subsidy mechanism did not "bite"? A first possible explanation is that these subsidies are ultimately not so discriminatory, hence inducing the Commission to estimate that the political costs of fighting subsidies would exceed the economic benefits of eliminating them.

There may be some truth in this argument. For instance, late 2008, all the ECMS producing cars have granted subsidies for scrapping old cars ("cash for clunkers") [WTO Report 2009]. If such subsidies were officially granted for greening the stock of cars in the ECMS, they were above all adopted for boosting the sales of new cars.[4] Available evidence on recent car registrations does not suggest strong distortionary effects within the car sector (especially if one takes into account how tricky it is to assess "true" discrimination after years of financial excesses, as discussed above). For instance, the shares of domestically-made and foreign-made cars sold in the French market are relatively similar in 2008 and 2009 for relatively similar brands (see Table 2).[5]

Such an explanation has serious limits. First, even if subsidies to greener cars do not introduce a massive discrimination in the car markets, they definitively distort the demand of cars relative to the demand of other goods and services—the global demand of cars has been achieved at the detriment of current or future demand of other goods and services. Second, it is doubtful that long lasting subsidies would not have some discriminatory impact in the long term.

For these reasons, one would have expected that the Commission would have—at least—paved the way for a progressive removal of the subsidies in such key sectors. For instance, it could have tabled guidelines—following a tradition dating back from the 1970s and 1980s marked by the huge excess capacities in steel or shipbuilding. The very long silence of the Commission raises serious questions about the robustness of international institutions which would be in charge of implementing stricter disciplines at the world level.

[4] In fact, many clunkers are still running, including in their country of origin, because the subsidy schemes were often badly designed, as best illustrated by Germany.

[5] Such an example is not unique. For instance, the guarantee that ECMS have provided to the clients of domestic banks would have been distortionary if only one or few ECMS would have taken such a decision. During a couple of weeks, this has been the case, with the Irish government giving an increased guarantee to the clients of the Irish banks alone (indeed, it is one of the rare cases where the Commission played its watchdog role). But this did not last long because all the ECMS adopted quickly roughly the same guarantees. Within a few weeks, the distortionary effect was much reduced, while the level of ECMS guarantee to clients was much higher and more uniform—a fascinating case of regulatory competition with a race to the top.

Building robust national institutions

How then to ensure an effective enforcement of stricter international disciplines during large-scale economic crises? The European case in subsidies is interesting because it shows that international institutions—even with executive power and a long record, such as the European Commission—are not sufficient.

Table 2. Registrations in the French car markets, 2008 and 2009

Brands	Registrations			Market shares	
	Aug'08	Aug'09	09/08 (%)	Aug'08	Aug'09
Renault	309461	306 985	-0,8	21,87	21,46
Peugeot	239414	238 217	-0,5	16,92	16,65
Citroen	197126	220 978	12,1	13,93	15,45
French brands	746001	766180	2,7	52,73	53,56
Volkswagen	94277	96 822	2,7	6,66	6,77
Ford	78184	82 953	6,1	5,53	5,80
Opel	65051	57 115	-12,2	4,60	3,99
Toyota	62763	54 227	-13,6	4,44	3,79
Fiat	51386	53 339	3,8	3,63	3,73
Dacia	28136	34 579	22,9	1,99	2,42
Mercedes	35638	33 785	-5,2	2,52	2,36
Audi	32185	33 311	3,5	2,27	2,33
BMW	34669	28 359	-18,2	2,45	1,98
Nissan	26939	26 373	-2,1	1,90	1,84
Seat	24332	25 768	5,9	1,72	1,80
Suzuki	17298	18 370	6,2	1,22	1,28
Hyundai	13557	14 886	9,8	0,96	1,04
Kia	11367	13 777	21,2	0,80	0,96
Skoda	12316	11 910	-3,3	0,87	0,83
Chevrolet	5912	11 748	98,7	0,42	0,82
Mini	13496	11 229	-16,8	0,95	0,79
Honda	8608	9 805	13,9	0,61	0,69
Mazda	9372	8 060	-14,0	0,66	0,56
Alfa Romeo	6533	7 814	19,6	0,46	0,55
Volvo	8180	7 591	-7,2	0,58	0,53
Smart	6045	5 211	-13,8	0,43	0,36
Lancia	3224	3 363	4,3	0,23	0,24
Porsche	1245	1 459	17,2	0,09	0,10
Mitsubishi	1930	1 347	-30,2	0,14	0,09
Land Rover	2308	1 334	-42,2	0,16	0,09
Daihatsu	1180	1 239	5,0	0,08	0,09
Lexus	1607	1 154	-28,2	0,11	0,08
Saab	2228	1 152	-48,3	0,16	0,08
Dodge	1808	1 038	-42,6	0,13	0,07
Subaru	733	973	32,7	0,05	0,07
Jeep	1792	835	-53,4	0,13	0,06
Jaguar	1207	812	-32,7	0,09	0,06
Chrysler	2008	801	-60,1	0,14	0,06
Ferrari	159	237	49,1	0,01	0,02
Maserati	176	178	1,1	0,01	0,01
Lada	124	28	-77,4	0,01	0,00
Cadillac	66	10	-84,8	0,00	0,00
Total	1414828	1 430 391	1,1	100,00	100,00

Source : Comité des constructeurs français d'automobiles.

Two reasons may explain the Commission's inertia. First is the Commission's desire to behave as a government. This is an unfortunate deviation from the Commission's core mandate which is to "*ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied, and formulate recommendations or deliver opinions on matters dealt with in this Treaty, if it expressly so provides or if the Commission considers it necessary*" [Article 211 of the Treaty of Nice].[6] Second, and more importantly, the Commission has no strong institutional support in the ECMS. Such an absence of domestic support at the ECMS level makes politically almost impossible the launch of economically sound debates on subsidies in the ECMS concerned during difficult periods—preventing any action from the Commission.

This discussion leaves two options. First is to give up about any willingness to design stricter international disciplines and to rely, as today, on "light" disciplines with international institutions being merely the host of negotiations on cooperative solutions to reduce and eliminate discriminatory measures. This "light" option requires a decision to launch negotiations and a assignment procedure (which institution will be asked to host the negotiations). After the Pittsburgh Summit, the G20 is clearly the place where to take the decision to launch negotiations. Then, the G20 could either directly assign an institution to do the task, or it could charge the WTO to be its "dispatching" (assigning) arm to the extent that the issues at stake are trade-related. For instance, in the case of subsidies in the car sector, a candidate institution to host negotiations first on netting out subsidies, then on progressive cuts of the remaining subsidies would be the OECD Secretariat which was the forum for a similar exercise on subsidies in steel and shipbuilding during the 1970s and 1980s. An alternative would be an *ad hoc* sub-committee set up by the G20.

The second option would be to design stricter disciplines and to ensure that international institutions would be robust enough. The European case suggests that this second condition requires the existence of robust domestic institutions which would buttress the international institutions in the front line.

[6] The Lisbon Treaty makes no mention to delivering opinions. Article 9D1 simply states that "*the Commission shall promote the general interest of the Union and take appropriate initiatives to that end*" before listing its coordinating, executive and management functions.

Is there a blueprint for such domestic institutions? The Australian Productivity Commission (APC) seems an attractive model. Its mandate is to be an "*independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians*" [APC website]. This mandate looks promising for the same two reasons that make the European Commission a disappointing institution. First, independence is ensured at the cost of no executive power (APC is an advisory body). In other words, the APC is not absorbed by attending to the most urgent things first (behave as a government). Of course, this independence comes at a cost: the influence of an APC-type institution is not instantaneous. Rather, it flows from its capacity, year after year, to deal with thorny issues, by collecting the appropriate information, providing sound economic analysis, and disseminating both via numerous hearings involving all parties—in short, from its capacity to build over the years a strong reputation to offer good solutions. All these features make APC-type institutions quite different from competition authorities. Indeed, it is remarkable that no ECMS competition authority has raised a strong voice for disciplining the subsidies granted since mid-2008, and that Australia has a very active competition authority, besides the APC.

The second key—by far, the most important—feature of the APC mandate mentioned above is that the APC goal is the "*welfare of Australians*" which includes producers, but also consumers and tax-payers, hence allowing the APC to take the widest possible economic perspectives. Such a feature gives to APC-type domestic institutions two key additional virtues. First, it makes them are very sensitive to the risk of attrition of competition in the markets of many goods and services often generated by deep crises (as amply shown by the Japanese Lost Decade). Second, it may allow to rely on such institutions for taking some risks in the world trade regime and in the WTO—for instance, when opening or re-opening the thorny negotiations on rules on contingent protection (particularly, safeguards).

To conclude, adopting stricter <u>international</u> disciplines with some chance to enforce them during harsh times requires building robust <u>domestic</u> institutions such as the APC. It would be conceivable that each WTO Member would create its own APC. But, that is not necessary. What counts for the resilience of the world trade regime is that the G20 Members would be equipped by such institutions (of course, this should not prevent smaller countries to create such an institution).

Conclusion. The Doha Round, the post-Doha agenda and the G20

The G20 Pittsburgh Summit sticks to the official line—"*we will fight protectionism [and] we are committed to bringing the Doha Round to a successful conclusion in 2010*." But the tone is definitively softer—there is no emphatic reference to fight "all forms" of protectionism. Such a language may hardly boost the already low moral of the trade negotiators in Geneva.

Paradoxically, the current crisis may have made the Doha Round easier. During the past year, the largest emerging economies have revealed their willingness and capacity not to increase their applied tariffs in difficult times—that is, not to use their WTO rights to increase applied tariffs up to their much higher bound tariffs.

Such a revealed preference may change dramatically the background environment of the Doha negotiations. It should induce the emerging economies to abandon their claim that they make huge concessions when cutting their bound tariffs (they are currently showing that they do that for their own good) hence to accept to limit their requests for exceptions to such cuts. Symmetrically, it should induce the developed countries to abandon their claim for "*effective market access*" (meaning cuts in the tariffs applied by the emerging economies) if they do not want a definitive collapse of the Doha Round—facing for ever the risk of high bound tariffs in the emerging economies and losing the huge opportunities in services liberalization. In short, both camps have to take their responsibilities.

In any event, concluding the Doha Round by 2010 remains a serious challenge. Korea—the G20 Chair in 2010—and Canada (the host of the G20 Summit in Spring 2010) would thus have the critical role to generate momentum. Such a goal would require the G20 to move on three fronts.

Mobilize trade negotiators

First, it would be important to mobilize trade negotiators' energy on the proposals suggested in section 3—getting a better sense of the trade-related measures routinely taken during "normal" years and of the potential impact of the most dangerous forms of protection. The exit phase of a large scale crisis is perilous, and it has the capacity to severely damage the resilience of trade policies. Avoiding confusion—hence fears, the mother of all panics—in

the coming months requires a better assessment of the level of resilience achieved in the coming months and years.

As of today, we do not have such benchmarks. The WTO has the capacity to generate these benchmarks only for import barriers. The G20 should thus designate the international institutions capable to provide the benchmarks for barriers on exports and for key "behind-the-borders" barriers, such as public procurement, subsidies, etc. Rather than designating directly the other institutions, the G20 could alternatively ask the WTO to "dispatch" the benchmarks to be done by other appropriate institutions (OECD, UNCTAD, World Bank, Export-import agencies, etc.).

Mobilize the business community

Second, it is important to mobilize the energy of the business community in favor of open markets. In this respect, goods do not offer very attractive opportunities to the business community in the long run for several reasons. Applied industrial tariffs in the 25 or so largest economies are already low or moderate. Binding them and cutting the remaining tariff peaks will be the important goal to achieve with the Doha Round. But, that also means that the gains from negotiations in manufacturing after a successful Doha Round will be largely limited to the small developing economies—a crucial result for these countries, but a point of marginal importance for the largest economies. Tariffs in farm and food products will remain substantial in most countries after a successful Doha Round. But there will be huge pressures coming from climate change, water scarcity and energy substitution to further liberalize agricultural trade, giving a new "*raison d'être*" to tariff cuts in agriculture—to be a key tool for fighting climate-driven hunger and avoiding water-driven conflicts.

Services can attract the support of the business community much more than any other conceivable trade-related issue, such as intellectual property rights, norms, non-tariff barriers, public procurement, rules, etc. They are the largest source of opportunities for firms for three reasons: their sheer size (50 to 75 percent of countries GDP), their ubiquitous presence (even the manufacturing or agrobusiness firms have a significant share (often about 50 percent) of their turnover in services) and their high level of protection—services are on average twice more protected than goods [Shepherd and Miroudot 2009]. Services liberalization will translate these opportunities into vast gains for consumers all over the world.

As this stage, the Doha negotiators can do very little in services for two reasons. They have imposed on themselves a sequencing of negotiations—getting results in agriculture and NAMA before starting to look at services—that shut themselves up. More permanently, the huge and heterogeneous WTO membership is not well suited for negotiations in services that deal with regulations, hence are much more complex than negotiations on tariffs.

As a result, there is no harm to start exploratory talks on services outside the WTO, before repatriating them in the WTO if they are promising [Messerlin and van der Marel 2009]. Such talks should be limited to the largest economies (roughly ten, the EC being one)—a group small enough to keep negotiations manageable and large enough to cover more than 80 percent of world production in services. One first possibility would be that the two largest world economies, the U.S. and the EC, explore the option of bilateral talks on services in order to have a better idea of the expected gains for consumers and opportunities for services providers. Such talks have interesting "dynamics": it would be relatively costless and highly beneficial to extend them to eight countries in order to cover more than 80 percent of world production in services. Furthermore, extending Transatlantic talks to these eight countries would massively reduce the risk of trade distortions.

The transatlantic option is not the only one available. Alternatives could be a transpacific (APEC) dialog or an Eurasian dialog. All these options are open because, once one of these dialogs is launched, the above-mentioned dynamic forces will induce the non-participating largest economies to join the talks because the EC, the U.S. and the group of the eight other countries have roughly the same share in most services, and no interest to be excluded from the exploratory talks.

As all these ten economies are G20 members, the G20 is a natural place to facilitate such talks. The G20 could even set up an informal committee to start such talks right away at the G20 level. If promising, the results of these talks could (ideally should) be "repatriated" into the Doha negotiations and constitute the embryo of a Doha agreement in services, giving the Doha Round the critical boost that was missing in July 2008.

Mobilize robust domestic institutions

The "iron law of thin majorities" is a permanent threat to the open world trade regime and to the WTO. Such a challenge can be dealt with in two different, complementary ways.

First, the WTO should be "flex-plined", that is made as flexible as possible while keeping its full role as a rule- maker (non-discrimination) and -guardian (dispute-settlement) [Messerlin 2007]. There are many possible sources of flexibility in the WTO. The most important is undoubtedly a reinterpretation of the "Single Undertaking" notion (every WTO member shall sign all the agreements negotiated during a round). Ten years later, such a strict interpretation is backfiring. It has fuelled a process of systemic *de facto* evasion of the WTO negotiations, with wide groups of WTO Members getting exemptions from various obligations ("negative coalitions") under the various pretexts that they are small or vulnerable, net food importers, recent WTO Members, etc. The alternative interpretation would be to make the Single Undertaking enforceable at distant periods of time, not at every Round. Within a period with no Single Undertaking, the negotiation process would allow members to "discriminate positively", that is, to open their markets further by participating in plurilateral agreements without waiting for an agreement among all members.

Indeed, the crisis and a successful Doha outcome exert convergent pressures for "flex-plining" the WTO. The WTO current business as the key negotiating forum on tariff cuts in goods will be much smaller—it is "death by success". The WTO is unlikely to be such a forum in services because of the complexity of services negotiations. But, it will remain the ultimate world forum for binding market access in goods and in services if it is made more flexible (see above). By contrast, the WTO may increase its role as "rule-maker/guardian" by improving its dispute settlement mechanism, and by becoming an effective monitor of the world trade regime, a "dispatcher" on behalf of the G20 of tasks to be done in trade matters by other international institutions, and a repository of stricter international disciplines.

The second way to deal with the "iron law of thin majorities" would consist in a serious effort to strengthen the national foundations of the world trade regime and of the WTO. GATT was a "light" body in terms of commitments and disciplines. The WTO is more demanding to the point that many obligations are routinely ignored or botched by its Members, as illustrated by its many monitoring obligations rarely fulfilled on time—when fulfilled.

As a result, looking for stricter disciplines for facing future large scale economic crises could be a dangerous illusion. It runs the high risks that the disciplines will not be enforced precisely when it will be time to use them. What is needed are domestic institutions robust enough to invest their reputation in their own country in supporting the stricter disciplines desirable at the world level. An illustration of such an institution is the Australian Productivity Commission, with its two main features—independence (requiring the absence of executive power and the focus on analyses, debates and persuasion) and a mandate focusing on the "welfare of all the people living in the country". Such institutions are also well equipped to make adequate impact assessments of future national laws and regulations—a feature crucial when topics on the table of negotiations include services or norms.

Final remarks: the role of Korea and Canada in 2010

The crisis has put the G20 at the heart of the world trade regime, but the page is still blank. Much will depend from the initiatives to be taken by Korea (the G20 Chair in 2010, the co-host of the G20 Summit in June 2010 and the host of the G20 Summit in November 2010) and by Canada (the co-host of the G20 Summit in June 2010).

Korea and Canada are well suited for the huge task waiting them. They are enjoying a rapid recovery, are strong supporters of the world trade regime and of the WTO, and have the best records in terms of resilience of their trade policies among the G20 Members.

Last but not least, both countries share a very precious advantage. They are among the 10 largest economies (counting the EC as one) but not among the "big elephants". This feature allows Korea and Canada to table bold proposals without attracting the suspicion that the same proposals would get if tabled by one of the "big elephants". The long history of the international trade negotiations shows how decisive bold initiatives taken by such countries can be.

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