Doha trade talks fan the flames of crisis

First it was climate change, then the food crisis, now it's the financial crisis that's being used as the pretext for the latest round of calls to conclude global trade talks. It appears many G20 countries are unable to make the connections between these crises and the free market policies that not only created them, but remain on the global trade negotiating table.

The recent G20 summit on the financial crisis, as well as the APEC meeting in Peru, published a strong declaration calling for the conclusion of World Trade Organisation (WTO) global trade talks, the "Doha Development Round". The APEC declaration even went so far as to direct their ministers to meet in Geneva in December to work towards its conclusion.

For many of the leaders at these summits the conclusion of the Doha Round would send a positive signal to the world about continued economic growth. Kevin Rudd explained that a conclusion of the Doha Round would be a "huge shot in the arm for the global economy" and to business confidence as well.

The WTO Doha Round talks collapsed spectacularly in July when India and China disagreed with the US over the protections for farmers in developing countries. Whilst this issue stopped the talks, there are a range of other deal breakers that are yet to be touched upon. Sensitive issues like US cotton subsidies, cuts to tariffs on manufactured goods, protection of agricultural products deemed important to food security, and trade in services will all need to be thrashed out at any upcoming meeting.

These recent calls for a conclusion of the round, however, seem to miss the fundamental problems associated with the free market ideology that plagues the financial system and also governs international trade. Governments all around the world are now realising that regulation and government involvement is essential to ensure that disasters like the financial crisis, and food crisis don't happen again. Yet the Doha Round calls for exactly the opposite - less regulation for goods and services, including financial services. At the talks there were 20 world leaders, and not one connected the dots.

On the Doha negotiating table is an expanded agreement of the General Agreement on Trade in Services (GATS): this sets the rules and commitments that governments make for the trade in services. The GATS has been a notorious agreement from its inception with global protests against the inclusion of essential services like water, education and health within its legally binding claws.

These concerns arise from restrictions that the GATS can place on government control over services. Under GATS, domestic regulation cannot be an "unnecessary barrier to trade" or "more burdensome than necessary" to ensure the quality of the service.

The definition of "necessary" is painfully ambiguous, creating uncertainty about just what can and can't be done; leaving the final decision to trade lawyers who arbitrate challenges to such regulation in WTO tribunals. In GATS, governments are also committed to entering into future negotiations with the intention of making greater offers for liberalisation (i.e. less regulation), known as the "ratchet effect".

When countries commit services to the GATS they are also able to exclude specific sectors from its conditions. Unless exceptions are made in the sectors of the services committed, governments are prohibited from a range of regulations on the access that foreign companies have to those service markets. These regulations may include: limits on the number of suppliers, value of transactions or assets, the total number of service operations, the total number of persons that may be employed, training required for employees, technology transfer, and policies that restrict or require joint ventures to provide a service.

Exceptions are essential for governments to salvage the policy space needed to regulate and ensure that investment and trade, and the conditions it happens under, benefit everyone.

Removing the space for governments to determine how businesses operate in a country can have a major impact when those services carry great significance for that country. India, because it has no commitments in the sector, has been able to ban trading in risky products, like agricultural derivatives, after speculation was driving the price of food to unaffordable levels. South Africa on the other hand would have difficulty doing the same as it has liberalised derivative trading with only a condition remaining on how service suppliers establish themselves. It's unlikely that anyone would now argue with the need to regulate other types of risky derivatives, say for example, sub-prime mortgage credit derivatives.

Despite the GATS promotion of less regulation of services including those that are financial, it does contain exceptions for governments to act. The Annex on Financial Services contains a "carve-out" that precludes anything in the agreement from preventing governments establishing regulatory policies for "prudential reasons". It follows this up, however, by saying that if such measures taken do not conform to the provisions of the agreement, they cannot be a means of countries avoiding their commitments. This means that even if prudential measures are taken, they could still be challenged in a WTO tribunal if they, in effect, undermine the regulatory constraints otherwise established in the agreement.

So governments are free to breach the agreement by acting prudentially, provided they don't, in effect, breach the agreement. What counts as "prudential" is also left undefined, with financial service lobbyists now arguing for a narrow interpretation that would limit it to regulations concerning solvency and financial disclosure.

Australia, like a number of other countries has made significant commitments in the area of financial services. While Australia has left itself quite substantial policy space to prevent and respond to situations like the financial crisis, it's not looking to offer the same to others. In 2006 10 countries, of which Australia was one, made a collective request for the fullest liberalisation for foreign service providers of financial services in around 21 countries. Australia is asking for countries to commit to removing restrictions on foreign ownership of financial services, something that it itself has preserved through protecting the "Four Pillars" banking policy, which prohibits the foreign takeover of Australia's four biggest banks, and insulates Australia from risky foreign acquisitions.

Concluding the Doha Round will only exacerbate the already problematic scenario of financial services regulation. The G20 has called for stringent accounting regulation, yet more restrictions on what accounting regulation can be implemented, will automatically be imposed at the conclusion of the Doha Round. These new rules, which disgraced accounting firm Arthur Anderson helped draft, are already agreed and awaiting the conclusion of the negotiations.

Despite the reduced regulatory capacity that would come from a conclusion of the Doha Round, the renewed push is justified on the grounds that it would give "confidence" to businesses. It would show that governments aren't going to go running around putting up tariffs or other protectionist measures. None ever said they would. Instead, governments from developing countries are being asked to ignore the negative impacts that a completed Doha will have on access to food, support for infant industry, climate change, and the regulatory space for responses to crises.

The focus on approving a deal would require them to give more concessions than the industrialised countries. This last ditch attempt to pressure developing countries to agree to the Round reeks of opportunism.

If Australia, the G20, and APEC, are serious about addressing this problem then they need to start looking beyond their neo-liberal economic text books. A response needs to extend beyond exclusive clubs to a more inclusive process, or as the UN General Assembly President called for, "a G192". Nearly 3,000 individuals and organisations around the world joined together in response to the G20 summit, calling for a process that represents the global nature of the crisis.

The G20 is not the body that should be charged with steering the response to this crisis as, despite their responsibility for it, others will feel its impacts more; and they deserve just as loud a voice.

Completing the WTO Doha Round will ultimately cause more harm than good.

More government policy space is required not less, which is at odds with what is dictated under the GATS. The environmental and food crises have demonstrated clearly that the free market doesn't work and if left to its own devices brings disaster. The financial crisis is only the latest in a long line of free market debacles.

It's time for governments and people around the world to actually heed the signals that are being sent. A new economic relationship is needed at a local and global level. Concluding Doha would just leave us on the same path that we've been on, a path to more and more crises.