



Cordell Hull Institute

# Trade Policy Analyses

Vol. 4, No. 2

March 2002



At the Second Asia-Pacific Executive Forum in Manila on March 5-7, 2002, Hugh Corbet presented a paper on the future of the multi-lateral trading system.

The meeting was convened by the East-West Center, based in Honolulu, and the Asian Institute of Management in Manila (pictured above).



Reproduced here is the paper by **Hugh Corbet** (above) presented at the meeting.

ASIA-PACIFIC FORUM...

## The Future of the Multilateral Trading System

Hugh Corbet

AFTER it was decided in May 1998, at the World Trade Organization's second Ministerial Conference, to prepare to launch a new round of multilateral trade negotiations, it took three and a half years of tortuous "talks about talks" to reach agreement on a negotiating agenda. In Doha last November, at the fourth WTO Ministerial Conference, the first WTO round was finally launched.

Following "the Seattle fiasco", as the intervening third WTO Ministerial Conference is remembered, there was a year-long hiatus, but serious discussions resumed early in 2001. Settling on a negotiating agenda in the ensuing nine months or so, after so much bungling, was on the whole remarkable. It owed much to the skillful diplomacy of Stuart Harbinson, as Chairman of the WTO General Council, and to the determination of Mike Moore, the WTO Director-General. It would not have been possible, however, if Pascal Lamy, the European Union's Commissioner for Trade, and Robert Zoellick, the U.S. Trade Representative in the new Bush Administration, had not achieved between them a political commitment to forge ahead.<sup>1</sup>

It would be nice to think that it will now be plain sailing. Well, the Uruguay Round negotiations of 1986-94, which took twice as long as originally intended, were certainly not plain sailing. Nor were the Tokyo Round negotiations of 1973-79. Not even the Kennedy Round negotiations of 1964-67 were plain sailing – even though, like the five rounds before, they were almost entirely concerned with tariff reductions. So why should anything be different with the Doha Round negotiations? We "know", for a start, they will not be completed in three years, by the end of 2004.

At a *technical* level, and after the usual wrangling over chairmanships, the discussions got off to a good start with agreement on a schedule of meetings and deadlines. Negotiators have to start optimistically. But observers have questioned how practical is the

## About the Author

Hugh Corbet, president of the Cordell Hull Institute in Washington, DC, was previously the Director of the Trade Policy Program at the Sigur Center for Asian Studies, George Washington University (1992-97), and earlier was a guest scholar at the Woodrow Wilson International Center for Scholars and the Brookings Institution (1990-92), all also in Washington.

For nearly twenty years, Mr Corbet was the Director of the Trade Policy Research Centre in London (1968-89), where he also founded and edited *The World Economy* (1977-89).

In 1982-88, Mr Corbet convened inter alia, in different parts of the world, eight "informal" roundtable meetings of ministers of trade ministers, senior officials, business leaders and independent experts from twelve to eighteen countries at a time. The meetings were part of the behind-the-scenes international effort to launch what turned out to be the Uruguay Round of multilateral trade negotiations of 1986-94.

**Few signs can be seen in the United States, or in other "majors", of real political support – in legislatures, bureaucracies, businesses and publics at large – for the further liberalization of trade and investment. Consequently, in other parts of the world, in East Asia and Latin America, governments are focusing on bilateral and regional trade negotiations**

- Hugh Corbet

schedule. Does it relate to realities on the ground, to the likely unfolding of events, to the readiness of the governments to negotiate? The answers depend on the degree of commitment among key negotiating parties.

At a *political* level, it is evident that the governments of the major developed countries are still not in a position, domestically, to get to grips with difficult issues such as agriculture, anti-dumping reform and the environment. What's more, the larger developing countries, the so-called Like-minded Group, continue to drag their feet – as over "the Singapore issues". More generally, many developing countries remain wary of "slippery slopes", reluctant to take on new obligations when they do not have the administrative capacity to fulfill existing ones, those undertaken in the Uruguay Round agreements.

For these reasons it is being asked when and how the Doha Round negotiations will actually get down to business. Few signs can be seen in the United States, or in the other "majors", of real political support – in legislatures, bureaucracies, business communities, publics at large – for the further liberalization of trade and investment.<sup>2</sup> Consequently, in other parts of the world, in East Asia and Latin America, governments are focusing on bilateral and regional trade negotiations.

Thus there is good reason to wonder about the future of the multilateral trading system. In this presentation I will begin by outlining the content of "the Doha Round development agenda", as the first WTO round is somewhat ambiguously called (as if it is not about developed-country interests as well). Then I will set out my view of the underlying problem in the multilateral trading system. Finally, I will suggest what still has to be done, beyond the *formal* launch of the first WTO round, to restore the momentum that was lost after the Uruguay Round negotiations – even as the new WTO system was being established.

## NEGOTIATIONS ON TWO TRACKS

First of all, then, what is the current state of play? As with the previous two rounds, conducted under the auspices of the General Agreement on Tariffs and Trade (GATT), it was realistic to presume that the first WTO round would eventually be launched on a comprehensive basis by somehow including all, or nearly all, proposals on the agenda. At the "reality check" on July 30, 2001, that did not look possible. In fact several weeks earlier, a study group of the Cordell Hull Institute urged at an international roundtable meeting of senior trade officials and independent experts in Gressy-en-France, near Paris, that governments begin thinking about a Plan B in case things did not come together in Doha, rather than risk a repetition of what happened at the Seattle ministerial meeting.<sup>3</sup> In September the group's draft report went further at a similar "informal" roundtable meeting at Gotemba,

Recent findings by WTO dispute-settlement panels have come down [on] U.S. anti-dumping laws and practices. In that sense the subject made the WTO agenda before the Doha ministerial meeting. Since the Uruguay Round negotiations, more and more countries – far beyond the traditional users – have been introducing anti-dumping laws, basing them on Brussels and Washington practices that have been increasingly criticized by trade-policy scholars.

- Hugh Corbet

Some have argued that the Doha Round negotiations should review all escape clauses – from emergency safeguards, subsidy-countervailing duties and balance-of-payments measures to antidumping actions – with a view to achieving coherence among them.

- Hugh Corbet

near Mount Fuji, hosted by the Government of Japan, and suggested “a two-stage approach” to launching the negotiations.<sup>4</sup>

In the end a broad-based approach was achieved by launching the Doha Round negotiations on two tracks. On track one are market-access negotiations and discussions on further systemic reforms. On track two are certain preparatory studies on, *inter alia*, the Singapore issues. There can also be visualized a track three that I will touch upon in the concluding section.

### Track One: Market-access Negotiations

On the “market-access negotiations” track are the principal items on the “built-in agenda” that were mandated in the Uruguay Round agreements, especially the liberalization of **agricultural trade**, the liberalization of **trade in services** and enlarging the agreement on trade-related aspects of protecting **intellectual property rights**. For the most part, the negotiations are being conducted in “special sessions” of standing WTO councils and committees, but two “negotiating groups” have also been established.

What is meant by the built-in agenda? As the Uruguay Round negotiations were concluding in 1993, it was realized that remaking the world trading system, originally founded after World War II on the GATT, had really only just begun. So steps were taken, there and then, to prepare the way for the resumption of negotiations as early as possible. First, specific commitments were built into the different agreements, providing for negotiations, consultations or other forms of discussion on the subjects in question. Second, provision was made in the Marrakesh Agreement, establishing the World Trade Organization, for the Ministerial Conference – the top decision-making body – to meet at least once every two years so that the new WTO system could be subject to a greater degree of political direction.<sup>5</sup>

No specific provision was made for the resumption of negotiations on industrial tariffs, which, hitherto, have been the core business of the multilateral trading system. At the Doha ministerial meeting, **industrial products** were added to the agenda, enabling all three sectors of the world economy to be fully addressed. Accordingly, a negotiating group is dealing with “non-agricultural market access”, NAMA for short, covering industrial products and fishing subsidies and tackling both tariffs and non-tariff measures.

The NAMA agenda includes proposals to reduce tariff “peaks” and “tariff escalation”. In the United States, there have been private-sector proposals to eliminate industrial tariffs, which in time could help to reduce the host of bilateral and regional “free trade” agreements and, in the process, the different “rules of origin” associated with them that complicate international investment decision-making on the location of production facilities.<sup>6</sup>

The central question is whether [bilateral and regional “free trade”] agreements cover “substantially all trade” among the participants.

On what that means, given the number of agreements that exclude agriculture, an understanding was reached in the Uruguay Round negotiations. It recognized that regional trade agreements can contribute to the expansion of world trade, but that contribution “is diminished if any major sector of trade is excluded”. The point has yet to be translated into a hard-and-fast rule.

- Hugh Corbet

Track one also provides for negotiations on WTO agreements. The second negotiating group, on “WTO rules”, is charged with: (i) “clarifying and improving disciplines” on anti-dumping actions and subsidy-countervailing measures; and (ii) addressing the problem of securing adherence to the requirements for departures from *unconditional* most-favored-nation (MFN) treatment to form bilateral or regional trade agreements, whether customs unions or free trade areas.

Regarding **anti-dumping reform**, there are still in the U.S. Congress, by contrast to the European Commission, a lot of closed minds. On this subject, however, recent findings by WTO dispute-settlement panels have come down on the side of complaints about U.S. anti-dumping laws and practices.<sup>7</sup> In that sense the subject made the WTO agenda before the Doha ministerial. Since the Uruguay Round negotiations, more and more countries – far beyond the four traditional users – have been introducing anti-dumping laws, basing them on Brussels and Washington practices that have been increasingly criticized by trade-policy scholars.

Many argue that anti-dumping laws are being mis-used as selective “safeguard” measures, which were outlawed, along with “voluntary” export restraints, under the Agreement on Safeguards that was reached in the Uruguay Round negotiations. Some have argued, therefore, that the Doha Round negotiations should review all “escape clause” provisions – emergency-protection, subsidy-countervailing, balance-of-payments and anti-dumping actions – in the context of competition policy with a view to achieving coherence among them.<sup>8</sup>

Regarding **regional trade agreements**, which have been proliferating for a decade and a half, the first WTO ministerial conference, in December 1996, authorized the establishment of a committee to determine whether they conformed to GATT Article XXIV. This article sets out the conditions for departures from *unconditional* most-favored-nation (MFN) treatment, the cornerstone of the WTO system, to form a customs union or free trade area. The central question is whether such agreements cover “substantially all trade” among the participants. On what the term means, given the number of agreements that exclude agriculture, an understanding was reached in the Uruguay Round negotiations. It recognized that regional trade agreements can contribute to the expansion of world trade, but that contribution, it added, “is diminished if any major sector of trade is excluded”.<sup>9</sup> The point has yet to be translated into a hard-and-fast rule.

Since 1997, the WTO Committee on Regional Trade Agreements has been reviewing a host of free trade areas and customs unions, but they cannot agree on a report on what ones meet the “substantially all trade” requirement. It is apparently acknowledged that the North American Free Trade Agreement (NAFTA) comes close to satisfying the requirement, but if that were written into a

Governments have to settle "unfinished business" on long-standing and well-established grievances. They must look ahead, however, if the WTO system is to keep abreast of developments as the world economy continues to integrate. That means dealing not only with border restrictions and non-tariff distortions of international competition but also with other impediments within markets to international businesses investing and doing business in them.

- Hugh Corbet

report the bar would be set too high for other agreements to clear. What's to be done? Could participants in regional trade agreements be required to cover all lines in tariff schedules? Or should the principle of unconditional MFN treatment be abandoned altogether?

In a "special session" of the WTO Dispute Settlement Body, proposals for improving **dispute-settlement procedures** are to be finalized by May 2003, building on those that could have been approved at the Seattle ministerial meeting.<sup>10</sup> Since then, there has been growing interest in requiring trade compensation where there are findings of non-compliance with WTO rules, rather than depend on the threat of retaliation to secure compliance.<sup>11</sup>

Just because items are on the negotiating agenda does not mean there will be meaningful negotiations on them. You can drag a horse to water but not make it drink. Among negotiators in Geneva, however, it is well understood that unless substantial progress is made on agriculture, little progress will be made on other items on the Doha Round agenda, especially those of interest to industrial countries.

### Track Two: Preparatory Studies

On the "preparatory studies" track are the issues on which there are working groups, some of them established at the first session of the WTO Ministerial Conference, held in Singapore more than five years ago. The so-called Singapore issues relate to extending the WTO system to investment regulations, competition laws, "transparency" in government procurement and trade facilitation. Negotiations on each will begin after modalities are settled at the fifth session of WTO Ministerial Conference, which is to be held in Mexico next year.

Governments certainly have to settle "unfinished business" on long-standing and well-established grievances. They must look ahead, however, if the WTO system is to keep abreast of developments as the world economy continues to integrate. That means dealing not only with border restrictions and non-tariff distortions of international competition but also with other impediments within markets to international businesses investing and doing business in them.

On **investment regulations**, none are arguing for the Doha Round negotiations to cover the wide range of issues addressed during the attempt, in the Organization for Economic Cooperation and Development, to negotiate a Multilateral Agreement on Investment, finally administered the *coup de grace* in 1997.<sup>12</sup> Investment is already covered in WTO agreements, including the General Agreement on Trade in Services, the Agreement on Trade-related Investment Measures and the Agreement on Trade-related Aspects of Intellectual Property Rights. It is argued that, in the

interests of systemic coherence, existing provisions to do with foreign direct investment need to be codified in a WTO agreement.

With the continuing integration of the world economy, it is evident that the security for investment abroad is at least as great as that for trade, partly what the GATT system has been about. The greater the degree of insecurity, the higher the return that would be required and the smaller, too, the flow of investment. In general, the problem is a failure of adequate enforcement of property rights, which is why for a long time investment in developing countries was substantially through commercial lending, guaranteed by governments.<sup>13</sup>

On **competition laws**, it has taken a long time for political leaders to understand that discussions on non-tariff measures, which began in the Tokyo Round negotiations in the early 1970s, were dealing with interventions in the market process that could discriminate in favor of domestic suppliers and against foreign ones – in other words, with international competition. Following the Uruguay Round agreements on non-tariff measures, it is logical to turn next to restrictions within countries, as with regulations limiting entry to some industries, such as telecommunications. In some countries governments have not taken enough interest in enacting or applying competition laws to prevent restrictive business practices by private companies.

None are arguing, however, for the Doha Round negotiations to cover all the aspects of competition laws that are covered in the United States, the European Union and other industrial countries. It is argued instead, as more and more developing countries introduce competition laws, that the issues should be addressed in sequence, beginning with a code on competition standards.<sup>14</sup>

On the other two Singapore issues, **transparency in government procurement** and **trade facilitation**, there is not a great deal of resistance. Negotiations could have proceeded straight-away, but they are being held back, at the behest of developing countries, until it is decided to go forward with negotiations on investment and competition after the fifth WTO Ministerial Conference.

Track two also provides for preparatory studies on a range of other subjects: (i) trade and the environment, (ii) electronic commerce, (iii) small economies, (iv) trade, debt and finance and (v) trade and the transfer of technology. Reports on these topics are also to be considered at the fifth WTO Ministerial Conference.

On **trade and the environment**, the focus will be on the compatibility of multilateral environmental agreements with WTO rules, while the difficulties posed by eco-labelling will be addressed, too. Thankfully, because it could have been a launch-breaker, the “precautionary principle” *per se* was kept off the agenda.<sup>15</sup>

Why? Because it is seen as a pretext for new or continuing protectionist measures. Even so, the principle is already written into the WTO agreements on technical barriers to trade and sanitary and phyto-sanitary measures, so it could be raised in the review of those agreements. Some may want to tighten constraints on the circumstances in which the principle can be applied.

## RESTORING WTO MOMENTUM

The health of the multilateral trading system depends a great deal, for good or evil, on the attitude of the United States – if only because it looms so large in the international scheme of things. One of the problems is that the United States does not attach importance to day-to-day continuity at a technical level in the conduct of government. So with each new President a new team of senior officials takes over in Washington and, if care is not taken, “institutional memory” is lost and the lessons of previous failures and successes have to be learnt all over again. That happens with successive administrations, but a particular case in point was the Clinton Administration, which set back continuity in the conduct of U.S. trade policy by at least a decade.<sup>16</sup> There are two reasons for saying that.

First, in seeking from Congress the renewal of “fast track” trade-negotiating authority, President W.J. Clinton insisted on his Administration being accorded a remit to press for labor and environmental standards in trade agreements. As a result, the bipartisan approach to U.S. trade policy, which had stood for half a century, broke down and the Congress refused five times to renew trade-negotiating authority. Four times! Yes, in 1994, 1995, 1997, 1998 and 1999. That was mainly because of Republican opposition, but not entirely, for in 1994 the Congress was still under Democrat control. A large proportion of Democrats in the Congress depend on AFL-CIO financial and “in kind” support for their re-election and so there are still many who support enforceable labor and environmental standards in trade agreements.

Second, in President Clinton’s time, the Office of the U.S. Trade Representative, originally established by President John Kennedy to coordinate trade policy among departments and with the Congress, took on the features of a corporate law firm, dealing with industry complaints on a case-by-case basis with no attempt made to develop a coherent policy in U.S. trade relations with the rest of the world. Much of this was recognized in *post mortems* that the State Department and others conducted after the Seattle fiasco. By then it was too late for the Clinton Administration to recover the situation. Confidence in its ability had suffered a serious blow. Fortunately, the Administration’s general commitment to trade liberalization was maintained, thanks to Robert Rubin, as Secretary of the Treasury, and to Lawrence Summers, his successor.

Governments in other countries had no option but to wait quietly for the arrival in Washington of a new team. After years of malign neglect of trade policy, however, it was bound to be difficult for George W. Bush's Administration to put its people in place, think through its positions and, at the same time, get behind the efforts of the European Union and Japan to mount a new round of multi-lateral trade negotiations. Getting things done usually means cutting corners. Not only are there lots of fences to be mended. Much also has to be done to build the domestic consensus and inter-governmental support that will be needed in the next two years to overcome the possibilities for procedural gridlock in Geneva and political inertia in the major trading countries.

Public debate in the United States continues to be dogged, one, by a lack of vision, direction and leadership at a political level and, two, by a great deal of mis-information (and dis-information) in the media. None of this can be turned around quickly. Anti-globalization activities, combined with the Information Revolution, have given new meaning to the old political adage, "The lie is half way round the world before the truth has got its boots on".<sup>17</sup> Nowadays this is done in seconds.

### **Purpose of Trade-negotiating Authority**

All sorts of the misconceptions, even in Washington, have to be put right. One is the idea that the U.S. Administration does not need trade-negotiating authority for trade negotiations to begin. That has never been in dispute. Both the Tokyo Round and the Uruguay Round were launched without the Administration of the day having trade-negotiating authority in hand. But the point is this. Neither round got down to business until, in the case of the Tokyo Round, the Congress passed the Trade Reform Act of 1974 (introducing the idea of "fast track" authority<sup>18</sup>) and until, in the case of the Uruguay Round, the Congress passed the Trade and Competitiveness Act of 1988.

Without trade-negotiating authority, the U.S. Administration is not in a position to provide effective leadership, to embark on trade initiatives that can be taken seriously. Some might be thankful for that. But the European Union and Japan are not yet in a position to assume that kind of leadership in the world economy. Yes, they did take the initiative, as mentioned, in renewing the effort early in 2001 to develop support for launching the first WTO round. Thereafter, though, repeated high-level calls for a new round were always at odds with what was happening at ground level, for everyone realized that the United States was not yet engaged. Only when the U.S. Administration became engaged in the middle of year did things begin to happen.

One of the lessons of the Clinton Administration is that for want of U.S. trade-negotiating authority the work program of the WTO lost momentum, the process of Asia-Pacific Economic Cooperation lost

... Governments have done almost nothing – about anti-globalization activities – to educate public opinion on the role of trade policy and the WTO system in promoting growth and development. For more than a generation the integration of the world economy has been out-pacing the development of political thought, institutions and leadership.

- Hugh Corbet

direction and the negotiations for a Free Trade Area of the Americas lost impetus.

### Grasping the Role of WTO Rules

Would that it was different. Rather than rely on the leadership of the one remaining superpower, it would be better if governments could cooperate more effectively in the joint administration of WTO principles, rules and procedures. But that would require a much greater degree of consensus among them on the purpose of the multilateral trading system. Governments have done almost nothing, in response to anti-globalization activities, to educate public opinion – let alone themselves – on the role of trade policy and the WTO system in promoting economic growth and development. For more than a generation the integration of the world economy has been outpacing the development of political thought, institutions and leadership.<sup>19</sup>

... By contrast to earlier GATT rounds, the first WTO round has had to take thoroughly into account the interests of developing countries, now three quarters of the WTO membership.

Today developing countries recognize their stake in the WTO system, as they did not in the GATT system, and have to be persuaded that proposals for further change are going to be in their long-term economic interests.

- Hugh Corbet

So it is important to foster greater public understanding of the way the principles, rules and procedures of the multilateral trading system serve three constitutional functions. The *first function* is to protect governments from sectional interests that want the governmental power of coercion to be used in their favor – be they multinational enterprises, labor unions or non-governmental organizations. The *second function* is to protect citizens, including legal persons (firms), from governments. The *third function* is to protect governments from one another. When multilateral rules are observed, fulfilling their functions as constitutional constraints, the managements of firms can get on with their business in a stable institutional environment, independently of where they are based.

Little has really changed since the failure of the Seattle ministerial meeting. In the major trading powers, including the United States, political leaders are still not speaking up in support of the rules-based trading system. Sound bites about “free trade” are hardly enough.<sup>20</sup> But the problem is not confined to the “majors”. Trade ministers almost everywhere have been intimidated into silence by NGOs, not so much by the strength of their arguments as by the methods they use to promote them, which appeal to popular fears and prejudices, get the attention of the media and can be flashed around the world in no time at all.

The political effectiveness of many NGOs is reinforced by the tendency in Washington and some European capitals to discount the multilateral consensus-building process, as if agreement between the European Union and the United States is all that matters. Sure, without agreement among the majors, accounting for two thirds of the world economy, there can be no progress at multilateral level. There can be no overlooking, all the same, just how much the new WTO system is different from the old GATT system.

## Changes in the WTO System

By contrast to earlier GATT rounds, the first WTO round has had to take thoroughly into account the interests of developing countries, now three quarters of the WTO membership. Today developing countries recognize their stake in the WTO system, as they did not in the GATT system, and have to be persuaded that proposals for further change are going to be in their long-term economic interests.

As developing countries got nowhere in the 1970s with their demands for a "new international economic order", they were pressed to participate more fully in the GATT system, which became an unstated goal of developed countries in the Uruguay Round negotiations and was substantially achieved. In that eighth and last GATT round, the developing countries made multilateral market-opening commitments for the first time and, having agreed to the negotiations being conducted as a "single undertaking", they are now parties to all the agreements reached – as they were not with the agreements reached in the Tokyo Round negotiations.

Instead of playing an active part in maintaining momentum in the work of the WTO system, the United States, under the Clinton Administration, was seen to take a back seat. Before long there were widespread concerns about "a lack of leadership" as the WTO system drifted. With doubts about the direction of American policies, coming so soon after the end of the Cold War, other countries were no longer as ready as before to follow the United States.

A lesson of the Clinton Administration was that for want of U.S. trade-negotiating authority the work of the WTO lost momentum, the process of Asia-Pacific Economic Cooperation lost direction and the negotiations for a Free Trade Area of the Americas lost impetus.

- Hugh Corbet

Only in the last few months, since the September 11 atrocity, has that begun to be said in public discussion of the position of the United States in the world. In January 2002, a former senior official in the Clinton Administration, in a thoughtful *Washington Post* article, wrote:

"The end of the Cold War was not, as some would have it, the End of History. It was, instead the end of one challenge to capitalism. And if we do not recognize the costs of the hubristic interpretation of world affairs we have accepted during the past decade (that we are right and all others must play by our rules or founder), then we will be making it easier for a new generation of challenges to arise.

"The harbingers of this looming threat are not just in the dissatisfaction of the world's poor. They also lie in the frustrations of America's allies at this moment of our undisputed greatness."<sup>21</sup>

Shortly before, the *Philadelphia Inquirer's* respected columnist Trudy Rubin was interviewed on PBS Television and, among other things, she said:

**"The end of the Cold War was not, as some would have it, the End of History. It was, instead the end of one challenge to capitalism. And if we do not recognize the costs of the hubristic interpretation of world affairs we have accepted during the past decade (that we are right and all others must play by our rules or founder), then we will be making it easier for a new generation of challenges to arise.**

**"The harbingers of this looming threat are not just in the dissatisfaction of the world's poor. They also lie in the frustrations of America's allies at this moment of our undisputed greatness."**

- David J. Rothkopf,  
in *The Washington Post*,  
January 20, 2002

**"We have to debate what kind of superpower the United States is to be in the world, what we want and need to do beyond military action, how to reach out – better trade policies, more opening to Third World trade, more aid. We can't solve the world's problems, but if we are the sole superpower, we have to do more than provide weapons."**

- Trudy Rubin, of the  
*Philadelphia Enquirer*,  
on the *NewsHour with Jim Lehrer*, PBS TV, January

"We have to debate what kind of superpower the United States is to be in the world, what we want and need to do beyond military action, how to reach out – better trade policies, more opening to Third World trade, more aid. We can't solve the world's problems, but if we are the sole superpower, we have to do more than provide weapons."<sup>22</sup>

In March, addressing the United Nations conference in Monterrey, Mexico, on financing for development, President Bush drew together in his speech the aid, trade and security goals in the reduction of poverty.

"The lesson of our time is clear. When nations close their markets and opportunity is hoarded by a privileged few, no amount of development aid is ever enough. We must tie greater aid to political, legal and economic reform. By insisting on reform we do the work of compassion."<sup>23</sup>

In the second year of his term it will be seen whether President Bush's rhetoric is turned into a coherent framework of policies that underpin the international economic order.

### **Impediments to the First WTO Round**

Differences over procedures usually reflect differences over substance. The impediments to launching the first WTO round were not so much over proposals for the negotiating agenda as over the development of the multilateral trading system. Developing countries have been angry and resentful about the way their interests are constantly brushed aside.

There have been three major impediments to negotiations and they have not been fully overcome. One has been the question of whether labor [and environmental] standards have a place in the WTO system. Another is the so-called implementation problem. The third is institutional reforms. All three impediments are having a continuing adverse effect on the conduct of "core business" (including the work program) and on public support for the WTO system.

### ***Labor Standards in the WTO System?***

On labor and environmental standards, the latter subject is being addressed in the WTO system, in the Committee on Trade and the Environment, but labor standards have posed a threat of a wholly different order of magnitude.

American interest groups and labor leaders have long been pushing for a "social clause" in the WTO system. Behind the push is the old pauper-labor argument for protection, popular in America since the 1920s, which said that because of low wages in developing countries, having an abundant supply of cheap labor,

16, 2002

**“The lesson of our time is clear. When nations close their markets and opportunity is hoarded by a privileged few, no amount of development aid is ever enough. We must tie greater aid to political, legal and economic reform. By insisting on reform we do the work of compassion.”**

- George W. Bush,  
speech in Monterrey,  
March 22, 2002

industries in developed countries should be protected by tariffs that counteract the lower costs of those foreign suppliers.<sup>24</sup> During the Tokyo Round negotiations, the argument was resurrected in “human rights” clothing by President James Earle Carter,<sup>25</sup> and during the Uruguay Round negotiations it was raised by President Clinton. A more recent variant of the argument is characterized as “the race to the bottom”. It expresses the fear that the need to compete with imports from countries with low wages and low labor standards will reduce wages and standards in the developed countries.<sup>26</sup>

The issue was raised yet again by the United States in preparations for the first WTO Ministerial Conference. In their concluding declaration, however, ministers “rejected the use of labour standards for protectionist purposes” and asserted that “the comparative advantage of countries, particularly low-wage developing countries, should in no way be put in question”. At the same time, they renewed their commitment to core labor standards, but insisted that the International Labour Organization is the competent body in which to pursue them.

At the Seattle ministerial meeting, there was a provisional trans-Atlantic agreement on a work program to examine the “social dimension” of trade liberalization, but it was killed when President Clinton suddenly declared his support for trade sanctions if countries did not comply with core labor standards. He confirmed the suspicions of many developing countries that U.S. demands on the subject were intended to put new limits on their trade.

### ***Neglect of the “Implementation Problem”***

Many developing countries were reticent in the late 1990s about a WTO round because of the problems they were experiencing in implementing their commitments in the Uruguay Round agreements. Towards the end of those negotiations, industrial countries made “best endeavor” commitments to provide technical and financial assistance to help them meet the kind of obligations they were assuming for the first time, but they were non-binding commitments and nothing like enough has come of them.

At the second WTO Ministerial Conference a number of developing countries argued that “implementation” problems should be addressed as part of the WTO work program. By the Seattle meeting, they were being encouraged to set out the problems and, after the debacle seen on TV screens and front pages around the world, the Like-minded Group took over the issue in the WTO General Council’s “implementation work program”. Failure by the majors to pay attention turned a problem into an impediment.

Documents prepared in Geneva listed a hundred problems, but the bulk of them, implying the re-negotiation of Uruguay Round agreements, could only be addressed in the context of a WTO round.

There was never any objection to re-negotiations as such. Agreements reached in the Uruguay Round negotiations specifically provided for their review as part of the built-in agenda. But the developed countries were not about to enter into piecemeal re-negotiations.

### Question of Institutional Reforms

The anti-globalization demonstrations in Seattle drew attention to the inability of governments to agree on an agenda for the first WTO round. Observers put the stalemate down to an unwieldy negotiating process, the intransigence of some countries and lack of leadership by the major trading powers. At the Seattle meeting, much was also made of a lack of transparency and "accountability" in the WTO system, dissatisfaction with the decision-making process and the exclusion of non-governmental organizations from the dispute-settlement mechanism. Since then there have been concerns that the WTO's dispute-settlement function, although working well, is infringing on its rule-making function<sup>27</sup> and that its consultative processes that have become "UN-ized".

Eschewing these issues has not made it easier to conduct WTO business. These kind of issues cannot be resolved in negotiations. They need to be tackled through the WTO's permanent institutional machinery – its councils, committees and working groups – by the membership and secretariat. And the sooner the better.

### TRACK THREE ON NEGLECTED ISSUES

This brings me to "track three" on which might be grouped the systemic issues that are not easily resolvable through negotiations of the *bargaining* kind. The impediments to negotiations got passing mention in the Doha Ministerial Declaration. These issues must be pursued far more seriously in the next year or two, as work proceeds on the track-two preparatory studies, if the negotiations proper – following the next WTO ministerial meeting – are to yield worthwhile results in the time left (one year or so) for their conclusion.

Critical to the launch of the first WTO round at Doha was the recognition that labor standards, along with sanctions to enforce them, have no place in the multilateral trading system. They are overwhelmingly opposed by WTO member countries. So it was just as well that the U.S. Congress did not pass trade negotiating-authority legislation before the Doha ministerial meeting. If it had done so and included in the authority a remit to press for enforceable labor standards in trade agreements it would probably have been a "launch breaker". There is no willingness to negotiate with the United States on such terms. In their ministerial declaration the participants in the fourth WTO Ministerial Conference simply reaffirmed the position adopted on the trade-and-labor issue at the first WTO ministerial conference.



The **mockingbird** is the state bird of Tennessee. Cordell Hull represented a district of Tennessee in the Congress of the United States, and was elected a senator from there, before becoming U.S. Secretary of State (1933-44).

"The mockingbird is known for fighting for the protect-

tion of his home – falling, if need be, in its defense. Mockingbirds are not intimidated by animals larger than themselves and have been known to attack eagles”

– Diana Wells, *100 Birds and How They Got Their Names* (Chapel Hill, NC: Algonquin, 2002)

### Trade Policy Analyses

Papers in the online series, *Trade Policy Analyses*, are published by the Cordell Hull Institute, which is a non-profit organization incorporated in Washington, DC, and is tax exempt under Section 501(c)(3) of the Internal Revenue Code.

The Institute’s purpose is to promote independent analysis and public discussion of issues in international economic relations.

The interpretations and conclusions in its publications are those of their respective authors and do not purport to represent those of the Institute which, having general terms of reference, does not represent a consensus of opinion on any particular issue.

**Copyright © 2002 by Hugh Corbet and the Cordell Hull Institute**

Permission is granted to quote from the paper, but it would be appreciated if the source could be acknowledged in the usual way.

Soon after Doha, the U.S. House of Representatives passed a relatively “clean” negotiating authority; with the U.S. Senate expected to follow suit early in 2002, although many now believe it will be postponed until after the “mid-term” Congressional elections in November. What will be the length of the duration of the negotiating authority? Three or four years? That is not likely to be settled until the House and Senate bills are reconciled in a conference between the two. Almost certainly, however, the negotiating authority will have to be renewed again before the Doha Round negotiations are concluded. At that time, the labor-standards issue could be raised again unless it has been put to rest, maybe through the ILO’s World Commission on the Social Dimension of Globalization that was announced at the end of February.<sup>28</sup> The World Commission could serve to get the whole issue firmly ensconced where it belongs, in the ILO alone.

Before, at and after the third WTO Ministerial Conference, it became clear in the face of criticisms by developing countries, various NGOs and many other informed observers that the institutional side of the WTO system has to be strengthened. Some of the weaknesses in the WTO system have been addressed, but not the more serious ones to do with improving the transparency of its internal functioning, improving its consensus-building procedures, accelerating “accession” negotiations, establishing a better procedure for selecting the Director-General and, last but not least, strengthening the WTO Secretariat, including its professional independence.

Underlying the implementation issues raised by developing countries in pre-Doha Round discussions is the failure of developed countries to deliver sufficiently on the “best endeavour” commitments they made in various Uruguay Round agreements to help developing countries fulfill their commitments by providing technical and financial assistance. There has been much talk of the need to promote “trade-related capacity building” in developing countries, but it requires substantial new resources, which in turn requires sustained high-level political attention (but so far has not got beyond lip service, as in the Genoa Economic Summit *communiqué* last July and the Doha Ministerial Declaration in November).

For the Doha Round negotiations to yield worthwhile results there has to be confidence among participants and, as things stand at present, confidence is seriously lacking among the WTO’s member countries.

<sup>1</sup> See the joint statement they issued in Washington, DC, on July 17, 2001.

<sup>2</sup> By the “majors” are meant the European Union, Japan and Canada, as well as the United States. Their trade ministers comprise the Quadilateral Group, formed at the Economic Summit in Toronto, in 1985, to provide leadership in the multilateral trading system.

---

<sup>3</sup> See the "chairman's statement" by Harald B. Malmgren issued after the informal roundtable meeting of senior trade officials and independent experts convened by the Cordell Hull Institute at Gressy-en-France, near Paris, on May 11-13, 2001, just before the annual OECD ministerial council meeting.

At the WTO Ministerial Conference in Seattle there was no "fallback position" in anybody's breast pocket and so, when the meeting came to grief, ministers and officials departed in total confusion not knowing what to do next.

<sup>4</sup> See the "chairman's statement" by John M. Weekes issued after the informal roundtable meeting of senior trade officials and independent experts convened by the Cordell Hull Institute at Gotemba, near Mount Fuji, on September 6-8, 2001, hosted by the Government of Japan.

<sup>5</sup> Three former Clinton Administration officials spoke volumes when they wrote after the Seattle fiasco that "the pointless practice of biennial WTO meetings at ministerial level ... should end". See Bowman Cutter, Joan Spero and Laura d'Andrea Tyson, "New World, New Deal: a Democratic Approach to Globalization", *Foreign Affairs*, New York, March-April, 2000, p. 91.

<sup>6</sup> See, for example, "Proposals for the Elimination of Industrial Tariffs", National Foreign Trade Council, Washington, March 2001. Also see the Council's position and recommendations, "WTO Fourth Ministerial Conference and New WTO Round", May 2001.

<sup>7</sup> Lewis E. Leibowitz, *Safety Valve or Flash Point? The Worsening Conflict between U.S. Trade Laws and WTO Rules*, Trade Policy Analysis No. 17 (Washington, DC: Center for Trade Policy Studies, Cato Institute, 2001).

<sup>8</sup> Gary N. Horlick, "Time for Coherence Among WTO Escape Clauses", a paper prepared for a study group the Cordell Hull Institute, presented at a World Bank conference on preparations for multilateral trade negotiations, Washington, DC, on June 23, 2001.

<sup>9</sup> Preamble of the "Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade", *Results of the Uruguay Round of Multilateral Trade Negotiations: the Legal Texts* (Geneva: GATT Secretariat, 1994), p. 31.

<sup>10</sup> The proposed improvements are reviewed in William J. Davey, "Strengthening the WTO Dispute-Settlement Process", a paper presented at the Cordell Hull Institute's Trade Policy Roundtable, Washington, DC, on 1 May 2001.

<sup>11</sup> Horlick and Lisa M. Pearlman, "Do WTO Sanctions Work? Compliance and Other Remedies", in Jagdish Bhagwati and Hugh Corbet (eds), *Labor Standards in an Integrating World Economy* (forthcoming). Also see Steve Charnovitz, "Rethinking WTO Trade Sanctions", *The American Journal of International Law*, Washington, DC, No. 3, Vol. 95, 2001.

<sup>12</sup> A careful review of the negotiations can be found in David Henderson, *The MAI Affair: a Story and its Lessons*, Pelham Paper No. 5 (Melbourne: Melbourne Business School, 1999). Also published by the Brookings Institution, Washington, DC, the Groupe d'Economie de Mondiale, Paris, and the Royal Institute of International Affairs, London.

<sup>13</sup> For a full review of the issues, see V.N. Balasubramanyam, "Extending the WTO System to Foreign Direct Investment", a paper presented at the Cordell Hull Institute's Trade Policy Roundtable, Washington, DC, on November 29, 2001.

<sup>14</sup> See, for example, *Trade and Competition Policies: Exploring the Ways Forward* (Paris: OECD Secretariat, 1999), pp. 60-65.

---

<sup>15</sup> The precautionary principle refers to Principle 15 of the "Rio Declaration on Environment and Development". It states that where there are threats of serious or irreparable damage [to the environment], lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to [prevent environmental degradation].

<sup>16</sup> For a critique, see my article, "Post Mortem on Seattle: Mistakes were Made", *The JAMA Forum*, Tokyo, February 2000.

<sup>17</sup> What rang true in the Congressional testimony of Jeff Skillings, Enron's former chief executive, was his description of the company's spectacular collapse as "a run on the bank". When word got out that there was something funny about the company's bookkeeping, it was hard to stop the rot, given how news spreads worldwide these days as quick as lightning.

<sup>18</sup> The reasons why "fast track" negotiating authority was introduced are set out in Robert C. Cassidy, Jr, "Negotiations on Negotiations: the Geneva Multilateral Trade Negotiations", in Thomas Frank (ed.), *The Tethered Presidency* (New York: New York University Press, 1982), p.16 *et seq.*

<sup>19</sup> Three decades ago, in 1971, the last presidential commission in the United States on developments in the world economy had the following to say: "The core of our present difficulty is the fact that government policies and practices, and international arrangements for collective decision-making, have not kept abreast of the high degree of international economic integration that has been achieved since World War II." Commission on International Trade and Investment Policy, *United States International Economic Policy in an Interdependent World*, Report of the Williams Commission (Washington, DC: Executive Office of the President, 1971), p. 6.

<sup>20</sup> The test of a "free trade" policy is how it copes with hard cases – like steel, textiles and agriculture.

<sup>21</sup> David J. Rothkopf, "Whatever Capitalism's Fate, Somebody's Already Working on an Alternative", *The Washington Post*, 20 January 2002. Mr Rothkopf was Deputy Under Secretary of Commerce for International Trade in the Clinton Administration.

<sup>22</sup> Trudy Rubin, interviewed on PBS Television's NewsHour with Jim Lehrer, 16 January 2002. For the transcript, see <[www.pbs.org/newshour/bb/international/jan-june-02/rubin\\_1-16.html](http://www.pbs.org/newshour/bb/international/jan-june-02/rubin_1-16.html)>

<sup>23</sup> "Bush Urges Nations to Use Aid as a Tool against Corruption", *The Washington Post*, March 23, 2002.

<sup>24</sup> The flaws in the argument are well known, pointed out long ago in Gottfried Haberler, *Theory of International Trade* (London: William Hodge, 1936), pp. 251-53.

<sup>25</sup> For a critique of the argument, see Deepak Lal, *Resurrection of the Pauper-labour Argument*, Thames Essay No. 28 (London: Trade Policy Research Centre, 1981).

<sup>26</sup> The merits of these fears are assessed in *International Trade and Core Labour Standards* (Paris: OECD Secretariat, 2000); and Daniel W. Drezner, "Bottom Feeders", *Foreign Policy*, Washington, DC, November-December 2000.

<sup>27</sup> On this point, see John M. Weekes, "Back to the WTO Negotiating Table", *Financial Times*, London, 5 April 2001. The former chairman of the WTO General Council argued that the WTO needed to revivify its rule-making function as a counterweight to its dispute-settlement function.

<sup>28</sup> For a comment on the parameters, terms of reference and composition of the World Commission, see the "chairman's statement, by William D. Rogers, arising from a meeting of trade, labour and development specialists in Washington, DC, on 4 December 2001.