



Cordell Hull Institute

# Trade Policy Analyses

Vol. 4, No. 3

April 2002



The Doha Round Agenda and Developing the Global Trading System was the subject of the Cordell Hull Institute's Trade Policy Roundtable meeting in Washington, DC, on April 18, 2002.

**Stuart Harbinson**, Hong Kong's Permanent Representative to the WTO went through the issues.

The meeting was held at the offices of Hogan & Hartson, attorneys at law, in the Columbia Square building (pictured above), designed by I.M. Pei.



Reproduced here is the text of the paper by **Stuart Harbinson** (above).

#### About the Author

Stuart Harbinson is Hong Kong's longtime Permanent

#### POST-DOHA MEETING...

## Lessons from the Launching of the Doha Round

Stuart Harbinson

IN THE multilateral trading system, administered by the World Trade Organization, the top decision-making body is the Ministerial Conference, which is required to meet at least once every two years. Preparations for each session of the Ministerial Conference are the responsibility of the General Council, composed of the representatives of WTO members, numbering 144 countries and economies, with another 30 odd negotiating to join.

Thus one of my tasks as Chairman of the General Council in 2001-02 was to head preparations for the Fourth Session of the Ministerial Conference where it was hoped by many that a new "round" of multilateral trade negotiations could be launched.

Eight rounds were conducted under the General Agreement on Tariffs and Trade. The first was in 1947 prior to the GATT entering into force. The last was the Uruguay Round of 1986-94. It established the World Trade Organization, which embraces not only the revised GATT, the General Agreement on Trade in Services and the Agreement on Trade Related Aspects of Intellectual Property Rights but also the Dispute Settlement Understanding, the Trade Policy Review Mechanism and many other agreements, understandings and decisions that were reached in the Uruguay Round negotiations.

#### Lessons of the Pre-Doha Process

The effort in 1998-99 to launch a new round at the third WTO Ministerial Conference came to grief in frustration, anger and confusion amid rowdy anti-globalization demonstrations in the Seattle streets. After a year long hiatus, the effort resumed last year and, at the Ministerial Conference in Doha on November 9-14, it culminated in the first WTO round finally being launched. It is called the Doha Development Agenda.

Representative to the World Trade Organization Geneva.

He was, until recently, the Chairman of the WTO General Council and he played the key role in securing agreement on the Doha Round agenda.

He is now chairman of the negotiating group on agriculture.

#### About the Meeting

In November 2001 the Doha Round negotiations were launched on two tracks. On one track are market-access negotiations and systemic reforms. On the other track are preparatory studies on "the Singapore issues" and other topics. There is also an unspoken "track three" of issues that were mentioned in the Doha ministerial declaration, but are being addressed, more appropriately, in the World Trade Organization's institutional machinery.

Serious discussion of a new round of multilateral trade negotiations resumed in early 2001 and so securing agreement on a negotiating agenda in nine months was a remarkable achievement.

By contrast to the earlier eight GATT rounds, the first WTO round has to take fully into account the interests of developing nations, now four fifths of the WTO membership.

Governments have to address "unfinished business" on long-standing grievances – including textiles and agriculture. But they also have to look ahead if the WTO system is to keep abreast of developments as the world economy continues to integrate. Progress on the

I have been asked to identify the lessons that might be drawn from the preparatory consultations that led to agreement on the Doha Round agenda. These notes have not been discussed with anybody else, not with my Hong Kong colleagues, let alone with other delegations in Geneva, and so they are very much my personal views.

#### **Lesson 1. *The level of participation in the WTO system is much greater than it was in the GATT system.***

Developing countries participated fully in the Uruguay Round negotiations in a way they had not done in previous GATT rounds. Moreover, as a result of the negotiations being a "single undertaking", they are parties to all the ensuing agreements that now make up the WTO system. The same goes for the former Eastern bloc countries that are in transition to becoming market economies and either have joined or are negotiating to join the WTO system. Today the developing countries and "transition economies" account for four fifths of the WTO membership and are playing an active part in WTO deliberations.

Besides the United States, the European Union, Japan and Canada (the "Quad" countries) there are the smaller developed countries like Australia, New Zealand, Norway and Switzerland that have always played an active part in the multilateral trading system.

With the increased participation in the WTO system, it is now necessary, in formulating ideas as a basis for further consultations on issues of general importance, for the Chairman of the General Council to meet regularly with the delegations in Geneva of 90 to 100 member countries. Even non-resident delegations want to express views and have them taken into account. In the preparations for Doha, many different views were expressed on the different issues that had to be addressed; on agriculture, for example, 125 papers were presented.

Greater participation in the WTO system is a healthy sign, and is greatly welcomed, but it is time consuming and there are no short cuts.

#### **Lesson 2. *Developing countries are not a monolithic group in the WTO system – as they may seem to be elsewhere.***

Beyond generalities, when it comes to specific matters, it is not possible to speak of developing countries thinking this or thinking that, for they are not a monolithic group. Developing countries have a wide variety of views and interests. They range from Costa Rica, which wanted the first WTO round to have a comprehensive agenda, to India which did not want a round at all. They range from countries with tiny populations, such as St Lucia in the Caribbean, to huge countries like China with a population of 1.2 billion people.

first is not likely to be made until there is agreement to proceed on the second. And neither might happen until there is greater confidence in the WTO system.

Seeing little possibility of progress being made for a while at a multilateral level, notwithstanding the *formal* launch of the Doha Round agenda, governments in Latin America and East Asia are substantially focusing on bilateral and regional trade negotiations, which do not have to wait for the United States.

The purpose of the half-day meeting was to review the situation and what is really required for the Doha Round negotiations to get down to business. There has to be more in the negotiations to engage the interest of manufacturers, such as the elimination of industrial tariffs. Big negotiations need a big objective to inspire the necessary political commitment to their success – both domestically and at inter-governmental levels.

#### Other Speakers

In addition to Stuart Harbinson, other speakers at the meeting included **John M. Weekes**, Chairman, Global Trade Practice, APCO Worldwide Inc., Geneva; **Hugh Corbet**, President, Cordell Hull Institute, Washington, DC; **Harald B. Malmgren**, President, Malmgren Group, Warrenton, VA.

#### Trade Policy Roundtable

The Cordell Hull Institute's Trade Policy Roundtable is sponsored by seven international law firms in Washington, DC: Akin Gump Strauss Hauer & Feld, Arnold & Porter, Hogan & Hartson, O'Melveny & Myers, Sidley

Many of the developing countries have organized themselves into different *ad hoc* coalitions to pursue common interests. Even the newly-acceded developing countries feel they have interests in common. One of the new coalitions is the group of Small Island Developing States. Another is the Like Minded Group, composed of India, Pakistan, Egypt and others, which is very influential, but not representative of all countries. The LMG coalition wanted the "implementation" problems associated with the Uruguay Round agreements to be resolved before negotiations proceeded to address new areas. By these last are meant "the Singapore issues", the extension of the WTO system to cover investment regulations, domestic competition laws, "transparency" in government procurement and "trade facilitation". Working groups were established on the first three of these issues at the first WTO Ministerial Conference, held in Singapore in December 1996.

There is a growing tendency towards *ad hoc* coalitions, as smaller WTO members seek safety in numbers, but this tendency also represents fragmentation.

#### **Lesson 3. *Developing countries cannot be overlooked in the WTO system.***

The developing countries rightly expect, and demand, to be able to participate in shaping WTO decisions and in making the decisions themselves. By accepting the obligations and rights of membership, they are entitled to a say in WTO deliberations. What developing countries say must be taken seriously. The African countries made their presence felt in the Geneva preparations and in the Doha ministerial meeting, especially on the TRIPs/health issue and they maintained remarkable cohesion.

The "implementation" question is a classic example of what can happen if a position articulated by a large group of developing countries is not taken seriously. From the outset, many developing countries experienced difficulties in implementing certain Uruguay Round agreements, for they lack the administrative capacity to fulfill the commitments involved. To some extent the difficulties were anticipated, for the agreements included "best endeavor" commitments to provide technical assistance, but they were non-binding commitments and have not yielded enough assistance. As a result, many developing countries were reticent about the launch of a new round, which would lead to them being required to undertake still more commitments. Initially, the problem was not taken seriously by the developed countries, who did not want to re-open agreements on a piecemeal basis. Prior to the Seattle ministerial, little progress was made on the issue, but afterwards the Like Minded Group took it up more forcefully and was highly effective.

Nowadays developing-country coalitions do not hesitate to complain to the Chair-man of the General Council and the

Director-General if they feel their interests are not being given sufficient attention. The Chairman and the Director-General would ignore such complaints at their peril.

**Lesson 4. *There is now much greater emphasis on "transparency" and "inclusiveness".***

As developing countries have participated more fully in the WTO system, they have become more attuned to the institutional arrangements that have evolved in conducting the business of the multilateral trading system, including the "green room" meetings in which representatives of key members meet informally to discuss ways to move forward on particular issues. Many smaller members objected to being excluded from meetings of that kind and then not informed about what happened in them.

Since the Seattle ministerial there has been much greater emphasis on the need for "transparency" and "inclusiveness" in the WTO's institutional machinery. Forging consensus in large groupings is usually hard and so WTO members have come to accept the need for small meetings, but expect to be included as far as possible and, when not present, to be informed about what transpires. The upshot, as mentioned earlier, is that many more meetings are required in order to achieve results.

Both the Doha ministerial conference and the earlier preparatory process in Geneva were very transparent by previous standards and acknowledged as such. But even then the final "green room" meeting in Doha came in for criticism.

Practically speaking, it is not possible to reach consensus with 140 odd delegations meeting in one room, but, with many members continuing to be sensitive about being left out of informal discussions, great care has to be taken to keep all members fully informed and provided with adequate opportunities for input.

**Lesson 5. *The method of preparation for a ministerial conference has to be geared to the prevailing climate of opinion among members.***

In preparing for sessions of the WTO Ministerial Conference it is the duty of representatives based in Geneva, meeting as the WTO General Council, to present something that ministers can deal with in just a few days.

Preparatory work in the General Council for the Ministerial Conference in Seattle was based on proposals from WTO delegations. When this approach was proposed, all delegations went along, not anticipating the ensuing difficulties. When proposals were put forward, their proponents remained committed to them, unwilling to compromise, and so delegations were not able to reconcile their differences. In the end, ministers were sent a

compendium more than thirty pages long, full of negotiating options presented in between square brackets.

In short, the preparations for Seattle were "proposal driven", whereas the preparations for Doha were "chairman driven", which was a high-risk approach and may not always work in future. In the intensive consultations that the latter entailed, much depended on the Chairman of the General Council having a good understanding of the technical issues, as well as an ability to interpret the concerns of member countries. A draft declaration was assembled as representing the Chairman's view of where the overall balance lies. With this approach, much depends on building a critical mass of support for the Chairman's draft, which – in spite of some criticism – was achieved ahead of the Doha ministerial.

**Lesson 6. *There is no substitute for political leadership from the major players.***

The business community has a substantial stake in the multilateral trading system, given that it is based on private enterprise, competition and liberal trade principles. That is too little understood in business circles and the public at large. But it is not a function of business to provide leadership in the WTO system. That is the function of governments, of their political leaders, their ministers of trade. Indeed, the role of the WTO Ministerial Conference is to provide political direction and control in the joint administration of WTO rules and procedures.

Close cooperation between the United States and the European Union is crucial to progress in the WTO system, a necessary precondition, but no longer sufficient on its own, given the large increase in participation. That is not to say the majors have to be in agreement on every issue. But if they are not respecting differences, and if they are not exhibiting willingness to compromise, the whole multilateral consensus-building process is seriously affected. The close personal relationship between Pascal Lamy and Robert Zoellick was a significant factor in the success of the Doha ministerial. Nothing like it was seen at the Seattle ministerial.

Trade ministers look to the business community for support, as they do to other sections of society that also have a stake in the WTO system's role in promoting economic growth and development, but the responsibility remains that of political leaders. In fact, political leadership, especially from the majors, is a *sine qua non* in maintaining, developing and extending the multilateral trading system.

Even so, the WTO system needs the support of businesses, both individually and through their organizations. In the absence of business leaders speaking up for the rules-based trading system,

the WTO is identified with "corporate greed", rather than corporate responsibility.

**Lesson 7. *To achieve consensus there has to be something for everyone and willingness to compromise.***

It is too easy for governments to stick to positions, especially if they are big enough to get away with it, and thereby make it difficult to achieve consensus. There has to be among WTO members a real willingness to compromise and a strong commitment to secure agreement.

At the Doha ministerial, for example, the United States compromised on the TRIPs Agreement, enabling it to be interpreted in order to allow developing countries to purchase drugs to fight HIV/AIDs at lower prices. Similarly, the European Union compromised on some environmental issues, agreeing to the precautionary principle being kept off the negotiating agenda. The LMG and the African groups compromised on the Singapore issues. The Koreans and Japanese compromised on fish subsidies.

The importance of consensus building is hard to underestimate. Consensus is difficult to achieve, but the WTO system is all the stronger when members cooperate, compromise, make the effort and get there.

**Lesson 8. *Technical assistance for trade-related capacity building is not a substitute for concessions in multilateral negotiations.***

Many developing countries are having difficulties in implementing certain Uruguay Round agreements because, as mentioned, they lack the administrative capacity to fulfill the commitments involved. The "implementation" issue has underscored the importance of technical assistance for trade-related capacity building. The need for technical assistance runs through the Doha ministerial declaration.

Trade-related capacity building requires much more than technical assistance. It also requires financial assistance. For that reason the WTO has instituted the Global Trust Fund to which members are contributing.

Technical assistance for trade-related capacity-building in developing countries is no substitute, however, for developed countries making concessions, opening their markets by reforming their policies, and adjusting to the integration of developing countries into the world economy would provide them (developing countries) to export and grow. Developed countries have to "bite the bullet" on unpalatable issues such as the liberalization of agricultural trade, reforming anti-dumping rules and reducing textile tariffs, tariff "peaks" in general and the "tariff escalation" problem.

**Lesson 9. *Ongoing ministerial involvement between ministerial conferences is useful and even essential.***

The role that some ministers played as “facilitators” was important at the Doha ministerial. At the informal pre-Doha ministerial meetings in Mexico City and Singapore a sense of “ownership” of individual issues was developed. It was also useful to have in Doha a core of ministers taking part in those meetings who, although not facilitators, were aware of the currents of opinion and the main obstacles on particular issues.

Ministers nevertheless have to be aware of sensitivities and be alive, for instance, to charges of “manipulation” which can arise – as after Doha in some quarters – when it becomes known that small groups are getting together.

**Lesson 10. *Forcing the pace too much may be counter-productive in the long run.***

Many of the recent difficulties in the WTO system were engendered by a feeling that a lot of members, developing countries, did not fully understand what they were getting into during the Uruguay Round negotiations. One result was the “implementation” problem, a millstone for the last two or three years, which is still with us.

Would better progress have been made overall by proceeding at a slower pace with which everyone is comfortable? Of relevance here are the Singapore issues that were outlined earlier. Time will tell, but it is clear that over-ambition on the part of some WTO members can provoke a negative reaction, which can have long-lasting effects.

**Lesson 11. *There needs to be a greater effort by the major players, the stakeholders in the multilateral trade system, to educate the membership more widely on what the WTO system is all about.***

In the above connection there is a need to develop a greater public understanding of the role of the multilateral trading system. The WTO system is not about managing or sharing out world trade. It is about providing opportunities, not guarantees. The dangers of fundamental misunderstanding must be addressed.

Jan Tumlir, for many years the “resident philosopher” at the GATT Secretariat, used to say that the underlying purpose of the multilateral trading system is to provide a stable institutional environment for the conduct of international trade and investment so that private enterprises know where they stand *vis-à-vis* their governments, and the governments of other countries – so that they can plan for expansion or if need be for adjustment, thereby facilitating economic growth and development.



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 protection 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 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.

## **Lesson 12. Partnership between the WTO Secretariat and WTO Members is also crucial.**

The relationship between the Chairman of the General Council and the Director-General of the WTO is key. In preparing for the Doha ministerial I had the full backing of Mike Moore and at the meeting in Doha itself he came into his own, displaying astonishing energy, commitment and stamina.

The establishment of the Trade Negotiations Committee, chaired by the WTO Director-General, has to be factored into the process as the Doha Round negotiations get under way. The General Council, however, is still in overall charge of preparations for sessions of the Ministerial Conference, with the next one to be held in Mexico next year, sometime in September. The relationship between members and the Director-General will continue to be crucial and needs to be handled with care and diplomacy on both sides.

### **Conclusion**

The WTO system is difficult to manage and moves forward laboriously. But the Doha ministerial conference shows it can make progress. The WTO system may have its faults, but it is irreplaceable because it is the unique forum for global trade rule-making and trade liberalization.

Churchill said of democracy that it is the worst form of government except for all the others. Perhaps something similar could be said of the WTO trading system. It needs to be nurtured and developed as an institution.

The Cordell Hull Institute and similar groups have an important role to play in supporting the WTO and encouraging its development along the right lines. There are areas where it should be possible to effect procedural improvements, as with “administrative” matters, such as the selection of the director-general.

As regards the WTO’s central task of expanding international trade, the Doha ministerial conference has shown the way ahead. But it is just a beginning. It provides a breathing space. The greater challenge, still to come, is whether the WTO can deliver on the Doha mandate.