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

About the Authors



Clayton Yeutter, of counsel at Hogan & Hartson, attorneys-at-law, Washington, DC, and Chairman of the Oppenheimer Funds Inc., New York, played a major role in the Uruguay Round negotiations, first as the U.S. Trade Representative, then as U.S. Secretary of Agriculture.

BREAKING THE IMPASSE...

Re-launching the Doha Round Negotiations in 2005?

Clayton Yeutter and Hugh Corbet

SINCE the collapse of the World Trade Organization's ministerial conference in Cancún in September 2003, the Doha Round negotiations have been seen worldwide to be in deep trouble, struggling with apparently intractable issues in an atmosphere of division and distrust, unable to get any traction. That did not come about overnight.

In all the "small talk" over the current state of the WTO system, the elephant in the room that nobody mentions is the undistinguished performance over the last decade of the Quadrilateral Group – the trade "ministers" of the United States, the European Union, Japan and Canada. The "Quad" was formed in 1985 at the Economic Summit in Ottawa to provide leadership in the multilateral trading system at a difficult time.

After the Uruguay Round negotiations of 1986-94, which pulled the old GATT system back from the brink of collapse and established the new WTO system on a broader, sounder and more equitable basis, the Quad countries failed to maintain the momentum of global trade negotiations. On agriculture, in particular, they simply dropped the ball, which was picked up by the Cairns Group of smaller agricultural-exporting countries prior to the WTO ministerial in Seattle and then, after that fiasco, by the Like Minded Group of developing countries.

Putting Agriculture in a Wider Framework

When the first WTO round was launched at the second attempt in November 2001, the negotiations soon bogged down. They chiefly bogged down over agriculture, but that affected negotiations on everything else – industrial products, trade in services, anti-dumping reform, regional trade agreements and all the rest.

How and why all that happened could be the subject of another meeting. We are here, though, to focus on the prospects for



Hugh Corbet, President of the Cordell Hull Institute, was earlier the Director of the Trade Policy Research Centre in London for twenty years (1968-89), where he founded and edited *The World Economy*, published in Oxford and Boston (1977-89).

About the Meeting

Participants included representatives of farm organizations in Argentina, Australia, Brazil, Canada, New Zealand and the United States.

Others who spoke at the meeting were **Allen Johnson**, Chief Agriculture Negotiator in the Office of the U.S. Trade Representative; **Bob Stallman**, President of the American Farm Bureau Federation; **Thomas Lambie**, President of the Federated Farmers of New Zealand, Wellington; **Liam McCreery**, President of the Canadian Agri-Food Trade Alliance, Ottawa; and **Pedro de Camargo**, former Secretary for Production and Trade, Brazilian Ministry of Agriculture.

Others who spoke were **Robert L. Thompson**, Chairman of the International Food & Agriculture Trade Policy Council, Washington, DC; **Andrew Stoeckel**, Executive Director of the Centre for International Economics, Canberra; and **Eugenio Diaz-Bonilla**, an

securing by the end of July a framework agreement on agriculture – a framework without modalities, without detailed negotiating plans. The purpose of this paper is to put that limited objective in the wider framework of what has been happening in the Doha Round negotiations as a whole.

We will first touch on the lack of preparation in launching the Doha Round negotiations, then identify the major issues to be addressed in the negotiations, before dealing with the need to pause for reflection on what the WTO system is about. Although a pause may seem impractical in the middle of negotiations, the “political season” in the United States – when typically not much happens on the trade front – may provide a window of opportunity for the trade policy community of the United States and other countries to rethink how the negotiations might be “re-launched” next year, after the American elections and after U.S. trade-negotiating authority has been extended.

It is in that context that we will turn to what might be covered, and not covered, in a framework agreement on agriculture – from a policy perspective rather than a technical one. We will conclude with a comment on what to expect of developing countries.

Lack of Preparation for Negotiations

All previous rounds of multilateral trade negotiations, conducted under the General Agreement on Tariffs and Trade (GATT), were launched on the initiative chiefly of the United States. On each occasion, the first thing that was done in Washington was to make sure there was a domestic consensus, by which we mean support from relevant interest groups with respect to American objectives at the time. Only then were consultations conducted in other capitals, those of other major trading countries, with a view to building international support.

As the eight GATT rounds became more complicated, in line with the integration of the world economy, building consensus and support domestically and internationally became more difficult. But it still had to be done.

This was *not* done, though, as the United States and others sought to launch the first WTO round. As a result, the Doha Round negotiations were launched on the run, somewhat half-heartedly and without an inter-governmental consensus on their purpose. Some still say that but for the terrorist attacks in the United States on September 11, 2001, the Doha Round would not have been launched at all. Governments felt the need to demonstrate solidarity.

Core of the Doha Round Negotiations

At the core of the struggle in the Doha Round negotiations are two major issues that have become harder and harder to resolve as,

executive director (Argentina) of the Inter-American Development Bank, Washington, DC.

Trade Policy Roundtable

The Cordell Hull Institute's Trade Policy Roundtable is sponsored by seven Washington law firms: Akin Gump Strauss Hauer & Feld, Arnold & Porter, Hogan & Hartson, O'Melveny & Myers, Sidley Austin Brown & Wood, Steptoe & Johnson and Wilmer Cutler Pickering Hale & Dorr. The meeting on May 28, 2004, was held at Hogan & Hartson.

over the course of half a century, the major trading powers have brushed them aside as "too difficult", as if they do not matter.

- One is the liberalization of trade in temperate-zone agricultural products, important to low-cost producers not only in developing countries but also in Oceania, North America and even parts of Europe.
- The other is the liberalization of trade in labor-intensive manufactures – textiles and clothing, footwear, furniture and earthenware, items that developing countries produce in quantity as they industrialize and begin to export to earn the foreign exchange they need to import and grow.

Resolving the *impasse* in the negotiations is not only a matter of sorting out the modalities for negotiations on the different items on the Doha Round agenda. The sources of tension and suspicion run deep and, to be understood, they have to be put in historical context and clarified in a longer-term perspective.

Pause for Reflection on the WTO System

As if the lack of consensus on the purpose of the Doha Round negotiations is not enough of a problem, it also has to be said there is not today, and there has not been for a long time, an inter-governmental consensus on the purpose of the WTO system.

Take the developing countries – to which we will return in concluding these remarks. Many of them appear to regard the WTO system as just another development entity, providing rights (benefits) without really requiring obligations. They feel entitled to what Robert Hudec called "legal flexibility".

Next Japan. For many years Japan was a strong supporter of the GATT system. The country benefited greatly from the GATT framework of rules based on unconditional most-favored-nation (MFN) treatment – which, along with national treatment, expresses the principle of non-discrimination, once regarded as the cornerstone of the multilateral trading system. Until recently Japan did not pursue bilateral or regional trade negotiations. In fact Japan saw the GATT system as a defense against the bilateral market-opening pressures of the United States and the European Union. But Japan has recently turned to bilateral trade negotiations, at least partially in response to its reluctant Uruguay Round commitment to open markets for agricultural products.

In the European Union the multilateral trading system is traditionally viewed as the framework within which it handles its relationship with the United States. From its very beginnings, the European Union has been preoccupied, above all else, with its own internal objectives and externally with its own system of preferential trade arrangements. Conflicts with the rest of the world are

becoming increasingly evident as “European integration” is being increasingly overtaken by the integration of the world economy as a whole, by what these days is encompassed in the catch-all term “globalization”.

In the United States there is a tendency, at least in public discussion, to talk about the multilateral trading system as a device for securing access to foreign markets for American exports. In public discussion – in political discourse and in the media – we do not talk about the system promoting trade liberalization as a positive-sum game. But the phrase “trade liberalization”, like the term “free trade”, does not convey the underlying purpose of the multilateral trading system.

What the WTO System is About

The multilateral trading system has been important from the start as a *rules-based* regime. The most critical aspect of the WTO system, as with the GATT system, is the protection it affords to the interests of weaker, i.e. smaller, countries against the more powerful: the United States, the European Union and Japan – and, more recently, China.

There are some in Washington who say the United States does not need the multilateral trading system. Well, the United States may not need the system to safeguard its interests in the way that small countries do, but that is not the point.

The multilateral trading system is important to the United States, and to American interests operating in other countries, because it serves to maintain a stable institutional environment for the conduct of international trade and trade-related investment – the kind of stability that cannot be delivered by the U.S. Army. The idea is conveyed by such trade-policy terms as “transparency”, “stability”, “predictability” and “non-discrimination”.

The WTO system is important because it enables private enterprises to know where they stand *vis-à-vis* their governments and the governments of other countries. That puts them in a better position for making investment, marketing and other business decisions of long-term significance, thereby helping them plan for expansion or, if need be, for adjustment. The institutional stability it promotes is conducive, if not essential, to international trade and foreign direct investment.

That is why firms doing business beyond their own national borders, wherever they are based (in the United States or elsewhere), attach importance to the multilateral trading system – even if they tend to take it for granted.

That is also why China concluded that the major benefit of joining the WTO system would be increased foreign direct investment

rather than increased foreign trade, although Beijing obviously hoped for both. The institutional stability resulting from Chinese adherence to WTO rules is a big help in attracting foreign investment. That point was made in official publicity before China joined the WTO – and evidence of it can be seen since then in official statistics.

Extension of U.S. Negotiating Authority

By early 2003 it was clear, and clearer still after the Cancún debacle, that the Doha Round negotiations could not be completed by the end of 2004, as originally intended.

Many believe the United States has until 2007 to finish the Doha Round negotiations under current U.S. trade-negotiating authority. That is not the case. Under existing law, U.S. “trade-promotion” authority expires on June 1, 2005. There is provision for a two-year extension, but it is by no means automatic. If the President chooses to seek an extension, he must submit to Congress in February (by March 1, 2005), a report setting out what has been achieved so far in the negotiations and why more time is needed.

The extension can be challenged by a “resolution of disapproval” introduced by any member in either the House of Representatives or the Senate. If either house passes such a resolution by June 1, 2005, the President’s current trade-negotiating authority will expire. If neither house does so, the authority will run for another two years, expiring on June 1, 2007.

Given the state of the WTO system, the magnitude of the U.S. trade deficit and the protectionist proclivities of some American industries and labor unions, securing a two-year extension of U.S. trade-negotiating authority is not going to be a pushover. It cannot be taken for granted. Complacency by those who want the Doha Round negotiations to succeed could sink them.

Looking ahead, the next WTO Ministerial Conference, which is to be held in Hong Kong, should be the occasion for “re-launching” the Doha Round negotiations and hurling them towards a successful conclusion. That meeting should be held when the United States is ready, i.e., after its trade-negotiating authority has been extended. That would suggest holding the ministerial in July 2005 or thereabouts. If all goes well, governments would then have just under two years in which to complete the negotiations (although they’ll want to complete them sooner because of the time required to secure formal approval by their executive and/or legislative bodies).

What does that tell us? It tells us that a major consensus-building effort will be required over the intervening 12-15 months to prepare for re-launching and completing the negotiations. Not only is such an effort required in the United States. It is also

required in the rest of the world. And it must involve not only governments but also the business community around the world as well as development, environmental, consumer and other groups that have an interest in trade liberalization. Millions of people throughout the world have a stake in the success of the WTO system generally and the Doha Round negotiations specifically.

Shift to Focus on Framework Agreements

To get WTO discussions in Geneva re-started – following the débâcle in Cancún – Robert Zoellick, the U.S. Trade Representative, wrote to trade ministers in January and then visited capitals to consult them. His message: “Let’s not waste 2004. Let’s keep working.” As a result, senior officials have begun thinking through more seriously what the Doha Round negotiations are about.

Instead of persisting with efforts to get agreement on the modalities for negotiations, the WTO focus has now shifted to discussing the outline of a final Doha Round “package”, commencing with a framework agreement on agriculture and one on non-agricultural market access. The idea is for the WTO General Council to agree on the two frameworks, and on approaches to other Doha Round issues, by the end of July.

Nobody expects to reconcile by then the positions of the different trade blocs and *ad hoc* coalitions. On agriculture, for example, positions range from that of the Cairns Group, fed up with being discriminated against in industrial-country markets, to the gradualist – some might say “resistant” – approach of Japan, Korea, Switzerland and Norway. So any framework agreement on agriculture can be expected to be at a high level of generality – and would be open, therefore, to different interpretations when negotiations resume.

The value of thinking through a framework together is that issues can be clarified from different perspectives. Something of the kind, which should have been done at a policy-making level before the negotiations were launched, was discussed at the Institute’s meeting on November 25. There it was argued that a consensus-building effort would be critical if the negotiations were to be re-launched in the second half of 2005.

“First Things First” in the Framework

What should be covered in the July framework on agriculture? There must continue to be a strong commitment to achieving a bold, deep and ambitious liberalization package. There is no political support for modest or incremental moves towards dismantling protection and support in the agriculture sector of the world economy. The liberalization of agricultural trade has already been postponed for half a century.

The framework agreement should be clear and simple. It should deal with first things first, i.e., with the elements or "pillars" of the framework established in the Uruguay Round agreement on agriculture. That original framework provides for substantial reductions in domestic support, border protection and export subsidies, while also maintaining a tight agreement on sanitary and phyto-sanitary measures. No one has suggested altering the basic elements agreed in the Uruguay Round negotiations.

1. On *market access*, the Doha Round negotiations are expected to build on the tariffication base, reducing the impact of "dirty tariffication" by substantially cutting tariff peaks. Various formulas for reducing tariffs have been proposed. Before getting tangled in technical details, however, the July framework should settle on the criteria to be met by whatever formula for reducing border protection is decided upon.

Moreover, since the purpose of tariffication was to get rid of non-tariff measures, the concept of tariff-rate quotas should be phased out. This was a last-minute provision in the Uruguay Round agreement to assure small suppliers of particular products a minimum degree of access to large markets.

2. On *export subsidies*, mostly used by the European Union, there is general concurrence in the United States, the Cairns Group and many developing countries that they must be eliminated, if not forthwith then over a short period. The effect of export subsidies is to depress world prices beyond what domestic subsidies are already doing and to distort consumption, production and trade, especially in developing countries.

The July framework should also cover export credits, food aid and state trading agencies, however small the problems in those areas may be in relation to export subsidies.

3. On *domestic support*, it has been argued for a long time in the United States that if border protection is substantially reduced and export subsidies are eliminated, the reduction of production subsidies will follow. But that argument has been undercut in the United States by huge "emergency aid" programs and by the increase in domestic subsidies approved in the 2002 farm bill.

During the Uruguay Round negotiations, a lot of time was spent on categorizing domestic supports: (i) the **green box**, those considered not to distort production and trade; (ii) the **amber box**, those considered to be trade-distorting and, therefore, subject to reduction commitments; and (iii) the **blue box**, devised in the Blair House agreement towards the end of the Uruguay Round negotiations, which exempted direct payments under production-limiting programs from being subject to reduction commitments.

These categories are much too nebulous. Their aim has been to “decouple” support payments from a farmer’s production decisions, a laudatory objective. But they have not disciplined domestic supports effectively. If they are to be retained, the boxes must be redefined and clarified. Otherwise, countries bent on resisting reform will simply shift support programs from one category to another.

Saying that is to admit there is a strong tendency in systems of government intervention in the market process to manipulate definitions and interpretations, something that is easily done where there is great complexity. So the aim should be to get rid of the boxes altogether. The fact of the matter is that all subsidies – as mainstream economists agree – distort consumption, production and trade to some extent.

Non-trade Concerns in Agriculture

In providing for the resumption of negotiations, the WTO Agreement on Agriculture included a passage that provided for “non-trade concerns” to be “taken into account.” But that assuredly does not put such concerns on a par with the three pillars.

The main obstacles to liberalizing agricultural trade remain the farm lobbies of the European Union and Japan, plus those in Korea, Norway and Switzerland, and certain segments of U.S. agriculture. In Western Europe and North-east Asia stress is put on the “multi-functionality” of agricultural production, by which is meant the pursuit of environmental sustainability, food security, rural development and food safety.

Much has been made of non-trade concerns in the Doha Round negotiations, but they are often a continuation of the temporizing that has been going on for years, seeking ways to delay progress in reducing protection and support. Non-trade concerns can be addressed by more direct policy instruments that are both more effective and more efficient. Agricultural subsidies induce intensive-farming methods, employing large quantities of fertilizers and pesticides that impact the environment adversely by polluting rivers and eroding topsoil.

Apart from their dubious objectives in the trade context, non-trade concerns have implications beyond agriculture. They have a bearing on the development of the WTO system and so it would be difficult, in the time remaining, to cover them satisfactorily in a framework agreement on agriculture.

Participation of Developing Countries

In agreeing to consider the elimination of export subsidies, spokesmen for the European Union recently said they do not expect developing countries to reciprocate in trade-liberalizing



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

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negotiations, demonstrating again how careless they are about the development of the multilateral trading system. As we said at the outset, it is important for developing countries to be integrated into the world economy, which means having them participate in the WTO system in the fullest sense.

Developing countries cannot expect the Doha Round negotiations to be a "free lunch" with benefits provided by developed countries without reciprocal obligations being undertaken by them. Most developing countries have onerous agricultural import restrictions that work to their disadvantage as they seek to hone their international competitiveness and hold down consumer costs. So a major goal should be improved market access *among* developing countries in addition to improved access to developed-country markets.

All developing countries with substantial interests in agricultural trade – as importers, exporters or both – must be actively involved. Yet there are signs many of them are more interested in preserving preferences in developed-country markets than in promoting trade liberalization across the board. And they seem to be preoccupied with special-and-differential (i.e., preferential) treatment. One wonders whether many of them really understand the underlying purpose of the WTO system and what it can do for them if they play their part in making it work.

The discussions in Geneva over the next few weeks aimed at reaching a framework agreement on agriculture, and another on non-agricultural market access, could give a psychological boost to the Doha Round negotiations and promote optimistic technical-level preparations for re-launching of the negotiations in the middle of next year. But the more positive mood imparted by whatever framework agreements are achieved would need to be built upon in the ensuing months through a consensus-building effort by those seriously interested in trade liberalization. There would still a considerable risk of things unraveling.