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With the multilateral trading system in crisis, following the collapse of the World Trade Organization's Ministerial Conference in Cancún in September 2003, the Cordell Hull Institute convened a series of meetings. The third one, a meeting of the Institute's Trade Policy Roundtable on June 16, 2004, addressed the need to "Pause for Reflection on the WTO System".

The meeting was held at Arnold & Porter, attorneys-at-law in Washington, DC. Pictured above is the well of the firm's building.

The meeting marked the seventieth anniversary of Cordell Hull's Reciprocal Trade Agreements Act of 1934.



Reproduced opposite is the text of the paper by **Harald Malmgren** (above) on "Post-Urugay Round

PAUSE FOR REFLECTION...

Post-Urugay Round Problems in the WTO System

Harald B. Malmgren

WHAT accounted for the problems in the Doha Round negotiations so soon after they were launched in November 2001? Some general reasons can be given. Conflicting policy priorities among governments make an international meeting of minds hard to achieve. Ever changing political dynamics in the leading Industrialized countries impede efforts to develop a consensus among them never mind with others on what needs to be done in the world economy and how to go about it. Differences in economic growth in countries around the world give rise to differing perceptions of national interests.

More specifically, however, the Doha Round negotiations have suffered from inadequate preparation, insufficient attention to political realities and a failure to realize that multilateral trade negotiations take years to prepare, conduct and complete. Eight rounds were conducted under the General Agreement on Tariffs and Trade (GATT) from 1947 to 1986-94. The first round under the auspices of the World Trade Organization (WTO), which came into being in 1995, was launched at the second attempt, but still without establishing an inter-governmental consensus on its objectives.

Once inter-governmental discussions on launching a first WTO round began in 1998, following the WTO ministerial conference in Geneva in May that year, differences increased from one preparatory meeting to the next. In the months before the third WTO ministerial conference, held in Seattle in December 1999, the confusion was becoming all too evident in the drafting of a ministerial declaration, which contained page after page of passages in square brackets (indicating optional approaches for further discussion). In preparing for the conference, the permanent delegations to the WTO in Geneva could not get close to agreement on a negotiating agenda, mainly because of continuing differences over liberalizing agricultural trade. It was almost as if

Difficulties in the WTO System" that was presented at the meeting

About the Author

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About the Meeting

After the WTO Ministerial Conference in Cancún came to grief, the Doha Round negotiations were seen worldwide to be in deep trouble, struggling with apparently intractable issues in an atmosphere of division and distrust, unable to get any traction.

When the negotiators back in Geneva still couldn't find a basis on which to re-engage, many asked whether the negotiations were salvageable or, if that was too soon to determine, whether it wasn't time to reflect on what the negotiations and the WTO system itself were trying to achieve.

Restoring the momentum of trade liberalization in the world economy is critical – following the Iraq crisis – to strengthening multi-lateral cooperation in general and, more particularly, in the WTO system.

At the core of the WTO struggle are two major issues that have got harder and harder to resolve as, over the course of half a century, the major trading powers have brushed them aside as "too difficult".

the struggle to secure the Uruguay Round agreement on bringing agriculture into the multilateral trade-liberalizing process had not happened. In that eighth and last GATT round an approach was agreed, after a succession of crises in the negotiations, on how to set about dismantling the protectionist farm-support policies of the industrialized countries.

When ministers arrived in Seattle they were confronted with a wide range of disagreements. The anti-globalization demonstrations outside the conference were hardly to blame for what happened inside. The real failure was weeks before in Geneva where delegations, including those of the Quadrilateral Group, were unable to find a way forward. (The Quadrilateral Group – composed of Canada, the European Union, Japan and the United States – was formed at the Group of Seven economic summit in 1985 to provide leadership in the multilateral trading system.)

The fourth WTO ministerial conference, held in Doha in November 2001, at last got the new round started, but the *impasse* that quickly developed was a reflection of the inadequate preparations. At the WTO ministerial conference in Cancún, in September 2003, an effort was made to rejuvenate the negotiations. It was yet another example of inadequate preparations. Ministers were called together for "a mid-term review", as they were during the Uruguay Round negotiations, to resolve a string of issues on which negotiators had been working for years.

Trade ministers, who are usually "junior" political leaders in their respective countries, cannot be expected to settle in large gatherings, let alone in a few days, complicated technical and commercial issues. Ministerial meetings can be useful in demonstrating agreement at a political level on problems that have been more or less settled by technical experts and negotiators. Occasionally they can be effective in reaching agreement on one or two outstanding matters. It is impossible, though, for ministers in large gatherings over a week or so to resolve issues that have eluded governments over a much more protracted period.

High-level meetings can dramatize differences among governments, but they are not likely to contribute to a meeting of minds, especially in the absence of an objective and systematic analysis of the situation, set in a global context. Differences among agricultural-producing countries have yet to be bridged. And the gulf between advanced industrialized economies and developing-country economies has been widening rather than narrowing. Perceptions of what multilateral trade liberalization means for each economy vary among governments. Resistance in governments to addressing serious trade-distorting policies has intensified in recent years, with some issues regarded as "untouchable", even when known full well to be at the heart of problems among the major trading countries – raising the question of whether genuine trade liberalization is possible.

- 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, such as 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 WTO system 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.

Other Speakers

The roundtable meeting was attended by 55 trade policy specialists, mostly from the Washington DC area.

Besides Hon Malmgren, other speakers at the meeting were **Ernesto Zedillo**, the former President of Mexico and now director of the Yale Center for the Study of Globalization, New Haven, CT; **Richard Eglin**, Director of Trade and Finance, WTO Secretariat, Geneva; **Kenneth W. Dam**, of the University of Chicago, a former U.S. Deputy Secretary of the Treasury and earlier U.S. Deputy Secretary of State; **John M. Weekes**, former Canadian ambassador to

Political Effects of Election Cycles

The political realities of election timetables, and how they affect the functioning the strength and influence of governments in their own domains, have been ignored as if they have no bearing on multilateral trade negotiations.

In the United States, where presidential elections are held every four years and Congressional ones every two, it was well understood that in 2004 the Administration would need to avoid unnecessary confrontations with members of Congress and special interest groups. That would have been so whatever the political complexion of the Administration. In the U.S. political system the Administration is obliged to consult with Congressional leaders and that can be difficult just ahead of elections. Even so, earnest efforts were made in 2004 to negotiate and ratify a number of bilateral free trade agreements, as well achieve a "framework agreement" without modalities on central issues in the stalled Doha Round negotiations. Members of Congress, however, generally want to postpone consideration of trade agreements and controversies over trade legislation until after presidential and Congressional elections.

In the European Union, at the start of the Doha Round negotiations, the governments of France and Germany were suffering from deteriorating domestic support, even in their own political parties. These two dominant partners in European decision-making were unable to endorse significant domestic and international economic initiatives. Neither was expected to be in a position to take meaningful decisions until after their national elections in 2006 and 2007. On top of that, the European Union is absorbing ten new members, admitted in mid-2004, as well as grappling with differences over fiscal disciplines and preparing to ratify a new constitutional treaty; trade negotiations with the rest of the world have been low on the European list of priorities.

In Japan, following the July 2004 elections for the upper house of the Diet, another important national election is not for at least three years. So there is reason to hope the Government of Japan can begin to consider bold steps in the intervening period.

Regular election cycles, normal in representative democracies around the world, mean that a major breakthrough on long-neglected issues like agricultural protectionism and anti-dumping reform requires elaborate, concerted and lengthy preparation.

Growth of International Competition

Nowadays multilateral negotiations involve much more than reducing *measurable* barriers to trade. After the Kennedy Round negotiations ended in May 1967, it was recognized, with industrial tariffs to be further reduced to very low levels, that non-tariff

the WTO and now senior policy adviser at Sidley Austin Brown & Wood, attorneys-at-law, Geneva; and **Ann Tutwiler**, president of the International Food & Agricultural Trade Policy Council, Washington, DC.

Others who spoke were: **Roberto Abdenur**, the Brazilian ambassador to the United States; **Anders Ahnlid**, minister at the Royal Swedish Embassy, Washington, DC; **Jagdish Bhagwati**, professor of economics at Columbia University, New York, NY; **Jean-Francois Boittin**, minister at the French Embassy, Washington, DC; **Hugh Corbet**, president of the Cordell Hull Institute; **Gary N. Horlick**, a partner at Wilmer Cutler Pickering Hale & Dorr, attorneys-at-law, Washington, DC; **Sidney Weintraub**, of the Center for Strategic and International Studies, Washington, DC; and **David Woolner**, executive director of the Franklin & Eleanor Roosevelt Institute, Hyde Park, NY. The meeting was chaired by **William D. Rogers**, vice chairman of Kissinger Associates, international consultants, New York, who recently retired as senior partner at Arnold & Porter, and **Lord Parkinson**, former British secretary of state for trade and industry.

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 Austin Brown & Wood, Steptoe & Johnson and Wilmer Cutler Pickering Hale & Dorr.

impediments and distortions to trade would have to be addressed in the next GATT round. Negotiating on these types of measures would necessitate the reconciliation of national industrial and agricultural policies and related legislation, regulatory regimes and administrative practices.¹ As a consequence, negotiations have become more and more political, requiring the greater involvement of legislatures and interest groups. Over the years, this has led to the participation in public discussion of a widening array of non-governmental organizations (NGOs), which feel they have a direct interest in the outcome.

Today multilateral trade negotiations are primarily a political process, as opposed to a technical one, with decisions required more in capitals than in international meetings. Negotiators can try to find common points of agreement, but their main task is to persuade politicians in their own countries about what has to be done. To succeed in this endeavor, negotiators have to help each other, not only in shaping an international consensus but also in selling that consensus back in their capitals.

Since World War II, governments have negotiated in eight rounds of multilateral negotiations, and in various regional endeavors, to liberalize trade and trade-related investment across national borders. This opened the way not only for rapid growth in the world economy but also for a rapid transmission of economic change from country to country. The acceleration of technological advances has amplified the transmission of economic forces and enhanced the efficiency of markets around the world.

Globalization is more than a process of integrating national markets and intensifying competition virtually everywhere. Now globalization is transforming national economies into a global economy and marketplace.

National and local governments are finding themselves overwhelmed by the scope and magnitude of changes brought about by international economic integration. But the speed with which governments react is far slower than the pace of change in markets around the world.² Government policy-making and decision-taking is slowing down in most countries as increasing transparency in official activity stimulates the interest and involvement of businesses, workers and other interests, including ordinary citizens. [The democratization of government activity means slower decision taking as more and more interests assert themselves in the making of policies and laws.]

Thus globalization is speeding up economic change while slowing down governmental responses. Small wonder that multilateral trade liberalization is slow and fraught with difficulties.

In most countries there has been an ongoing conflict between, on the one hand, proponents of freer and more open markets and,

on the other, those in favor of shielding existing businesses and institutions, labor markets, cultures and social values from the perceived ravages of intensifying international competition. Government responses to growing international trade and investment have fluctuated between efforts to open markets further and efforts to restrict market access to insulate domestic enterprises and their workers from foreign competition within their borders. But increasingly, in an integrating world economy, major enterprises rely for their success on access to foreign markets – and on competing with foreigners in home markets.

Course of Multilateral Negotiations

Towards the end of World War II, governments prepared to restore, with the end of hostilities, a semblance of order in world commerce. They envisaged at a meeting in Bretton Woods, New Hampshire, in 1944 a concerted effort being made to liberalize international trade on a non-discriminatory basis within a multi-lateral framework of principles, rules and procedures. In the end this “rule of law” approach to trade relations was embodied in the GATT system. At Bretton Woods, governments established a framework of monetary rules through the International Monetary Fund (IMF), entailing a concerted effort to liberalize controls on capital flows. Also at Bretton Woods, governments established the World Bank to promote the reconstruction in war-torn Western Europe, but, with the Marshall Aid program of the United States and Canada, its role became the promotion of economic growth and development in developing countries.

In addition, the coordination of economic policies was promoted through the Organization for European Economic Cooperation, formed to administer Marshall Aid, but in 1961 it was expanded into the Organization for Economic Cooperation and Development (OECD). Various other international organizations were established and a number of informal processes of consultation were also initiated.

The primary objective in the post-World War II period was to put in place a framework of trade and monetary rules within which market economies could function effectively on an increasingly global scale. In the early 1970s, the Bretton Woods system of fixed exchange rates broke down; and in the early 1980s, the multilateral trading system nearly collapsed.³ The post-war objective was carried a stage further in 1995 when the GATT, as amended, was absorbed into the WTO system, along with the many other agreements reached in the Uruguay Round negotiations of 1986-94 (listed in Appendix 1).

Over the last half-century, multilateral and regional trade negotiations have been initiated from time to time, with governments seeking a comprehensive approach to the opening of markets. But comprehensive trade negotiations, whether multilateral or

regional, invariably entail a lengthy process, that last several years.

For example, the Kennedy Round negotiations, the sixth GATT round, were initiated in 1962 after a year or so of international consultations, but they were not completed until the spring of 1967 and, even then, some of its provisions had to be worked out in subsequent months. Although those negotiations (in which I took part) primarily focused on the task of reducing tariffs, they took more than six years – taking into account the consultation period – before the major parties could come to agreements.

The Tokyo Round negotiations (in which I was also involved) attempted to address trade-distorting non-tariff measures as well as tariffs and they took far longer. They were formally initiated by ministers meeting in Tokyo in 1973 and they were completed in 1979. Most of the Tokyo Round agenda, however, was developed between the closing months of 1967 and the formal opening. This preparatory period of six years was characterized by intense informal consultations about appropriate subjects for the negotiating agenda without which the formal negotiations could never have been launched.⁴ So it could be said correctly that the Tokyo Round effort took twelve years from consultations to agreements.⁵

The Uruguay Round negotiations delved further into non-tariff measures and domestic policies that impede and distort international trade, investment and business activity. An attempt was made by the United States to launch a new GATT round in 1982, utilizing the OECD as a coordination point, but agreement could not be reached with a sufficient number of governments. After further efforts to settle on an agenda, the Uruguay Round negotiations were formally launched by ministers in September 1986 at Punta del Este, Uruguay, but without a great deal of preparation and with only a general consensus on objectives. The next two years were taken up with interminable arguments about what should be covered, especially whether, and in what way, to deal with agriculture. After the negotiations finally began it took until the end of 1993 before agreements could be reached. Even then some of the most important questions could not be settled.

In the end it was decided to pursue a specified agenda of unresolved issues on a schedule in the ensuing years. This “built-in agenda” of future work in the WTO was not fully addressed until the end of the 1990s, even as a new round of multilateral negotiations was being planned, if inadequately, for ministers to launch in Seattle in December 1999.

Why do Negotiations Take So Long?

Why do multilateral trade negotiations take so long? First, a domestic political consensus must be developed in support of

further trade liberalization, which requires domestic consultations with businesses, financial institutions, labor unions, farm organizations and other interest groups. Some kind of consensus must then be built among politicians to provide sufficient authority for government officials to negotiate on behalf of their countries. Domestic consensus building is much like a political campaign for public office. It takes a considerable amount of time to bring about a convergence of thinking among variegated and often conflicting economic interests on the merits of further opening markets worldwide.

Negotiators must then meet with each other internationally to develop a negotiating agenda and how its goals might be pursued. Actual negotiations among governments might take several years as each government weighs the political, economic and social consequences of making concessions *to* others, which might have adverse effects on domestic interests (if they do not adjust), in order to secure concessions *from* others that benefit other domestic interests.

Finally, after negotiations are concluded, the negotiators have to return home to seek legislative implementation of agreements. In some governments this task is less difficult than in others. In the United States, however, legislative implementation tends to be a controversial political process, lasting many months or even years.

One of the reasons for addressing trade and investment issues comprehensively is to allow governments room to balance gains and losses among the many economic interests affected by further market opening. Concessions by governments in such politically difficult areas as agriculture usually cannot be made without offsetting gains in non-agricultural industries. In the United States it has not been possible to secure Congressional approval of trade agreements without the active support of agricultural export interests.

The experience of decades of trade-liberalizing efforts has been that significant progress takes years. This should not be surprising. Changes in policies, laws and regulations are required in every country. As the issues under discussion increasingly involve internal policy measures, as the integration of the world economy proceeds, domestic politics can be expected to play a growing role. It takes time to reconcile diverse interests among a large number of countries and develop a workable consensus in favor of more open markets.

Attempts to Short-circuit Negotiations

Some attempts have been made to short-circuit multilateral processes through bilateral and regional negotiations. Free trade areas among neighboring or like-minded countries have sought

quicker results. Even so, the politics of bringing national interests and legislatures into line are typically complicated. Gaining Congressional approval in the United States for the implementation of the North American Free Trade Agreement (NAFTA) required a massive political effort by the Clinton Administration. Even after NAFTA cleared the legislative hurdle, political debate continued over its costs and benefits, obliging U.S. Administrations to seek further clarifications and re-interpretations.

In the latter period of the Clinton Administration, which failed to secure from Congress the renewal of "fast track" trade-negotiating authority, there was a change in priorities to focus on sector-by-sector negotiations to obtain early results in industries where the United States could obtain significant benefits. The most notable of those sectoral agreements were in telecommunications, trade in information technology products and services and the protection of intellectual property. Since these agreements involved no real "sacrifices" for domestic U.S. interests and provided, furthermore, for the expansion of international business for American companies, they were far less controversial in the United States.

- They have had the effect, on the one hand, of opening the way for even faster international economic integration through telecommunications, technology transfer and trade in computers and electronic systems, providing the infrastructure through which the information revolution can work its will.
- On the other hand, the sectoral approach essentially brought rough satisfaction to many business groups, which came to believe they no longer have a specific stake in future trade negotiations.⁶

The sectoral approach was beneficial to some industries, but, it narrowed the base of US support for trade liberalization.

The Bush Administration has tried a more ambitious strategy of negotiating preferential trade agreements, both bilateral and regional, in parallel with multilateral trade negotiations. The basic concept is to develop several trade-liberalizing paths by working with "like-minded" partners wherever they can be found. The hope has been that this will help to build momentum for worldwide liberalization.

Unfortunately this "shotgun approach" to trade negotiations has had three negative consequences:

- First, it has greatly complicated political and administrative processes. In many countries, handling two or more separate sets of negotiations involving bilateral, regional and multilateral issues overwhelms the capacity of their

governments. Even in the United States, the recent proliferation of "free trade" agreements is straining the capabilities of the Congress.

- Second, the negotiation of special agreements with particular countries, or groups of countries, has built in the governments of those countries an incentive to preserve "privileged" access to some markets by resisting efforts to reduce MFN tariffs and non-tariff barriers on a universal basis.
- Third, in its eagerness to reach agreements in specific cases, the United States has recently yielded to domestic interest groups and exempted agricultural products from coverage in a free trade agreement, as most conspicuously in the 2004 agreement with Australia. In effect, the United States has abandoned its position of many decades that a free trade area must cover "substantially all the trade", as required under GATT Article XXIV. This has opened the way for countries like Japan to proceed with the negotiation of bilateral free trade areas that exclude agricultural products.

Governmental decision-making is inherently slow. Recent trends towards deregulation and greater market orientation in public policies enhance the effects of globalization, including technological advances, by allowing greater flexibility and resilience among firms. This trend also reduces the number of instruments available to governments for guiding or influencing business activities. Moreover, national budget strictures increasingly preclude the use of government subsidies, and other incentives, in providing public assistance to private enterprises.

Adjustment to Changing Circumstances

The "less government" trend swept across many countries in the 1980s and 1990s. It was led by ideologists of the right, beginning in Britain under Margaret Thatcher, with their strong belief in the primacy of market forces. Such conservatives also believe, generally speaking, that governments should be less active and intervene only in response to specific complaints. This philosophical approach, since the 1980s, led the U.S. Administration to put greater emphasis on dealing with complaints from private business interests, instead of trying to anticipate problems with general policies.

Unfortunately, the "case law" approach depends on complaints from specific interest groups, which bring narrowly defined problems as seen at a given moment. The complaints usually relate to problems encountered in the recent past, based on anecdotal evidence, but new policies dealing with recent problems are frequently out of date by the time they are implemented. In the absence of other instruments, there is an inevitable tendency

to look to import restrictions as a means of protecting troubled enterprises, justified by the charge that foreign enterprises and governments are engaged in "unfair trade practices". These last are usually practices that are simply different from those that are typical of one's own economy. When the practices of another country vary from those of the United States, there is a tendency to ascribe the deviation, to an unfair trade practice, in complaints lodged with the government. The result has been a growing array of import restrictions on specific products, most often manufactures, justified by the need to counteract "unfairness".

Actions to restrict trade may be popular politically, but they tend to be ineffective, even counter-productive. The common characteristic of government actions is that policy responses take time, often years rather than months, while the circumstances that gave rise to the action are usually overtaken by entirely new economic developments. Moreover, restrictions on trade imposed on one country usually induce businesses to relocate production, creating new sources of competition in other countries – as exemplified by the way import quotas against textiles and clothing from developing countries resulted in the spread of production throughout the developing world.

Seeking governmental relief and assistance usually begins with complaints from businesses, and sometimes groups of workers, who find themselves subject to unanticipated competitive pressures from producers in other countries. These businesses and their workers are unable to adjust effectively to emerging international competition. After a year or two, or even longer, businesses file complaints of unfair trade practices by foreign competitors; or sometimes they simply lobby for relief on a political basis. Governments and legislatures then consider the domestic pleas while contemplating an appropriate response. Eventually governments either act unilaterally or seek negotiations with other governments. Unilateral action can be quicker; and it is often preferred for that reason, even though it is inconsistent with the multilateral framework of rights and obligations to which governments have committed themselves. International negotiations take much longer, primarily because the various governments involved must develop a domestic political consensus about how to respond.

Enterprises that have succeeded in dealing with international competition, especially those at the frontiers of technology, usually avoid involving governments in their activities. Winners in coping with international competition generally take for granted the existence of a smooth functioning global marketplace. Only rarely do they take an active interest in trade policies. It is the losers in international competition that drive trade policy.

Most efforts of governments to relieve the pains of industrial adjustment end up as policies to slow adjustment and reduce

external competitive pressures. Most industrial policies have the effect of keeping existing managements in place – even though the problems of many enterprises are attributable to the failure of managements to anticipate technological and competitive forces. Governments find it relatively easy to invoke “adjustment resistance” policies, the costs of protection are relatively invisible, while measures that hit foreigners more than domestic interests are invariably popular. (As some politicians say privately, hitting foreigners is politically cost-free; foreigners don’t vote in their re-election)

Quality-of-Life Issues

As the twentieth century was closing, a variety of “quality of life” issues were being raised in trade-policy debates. As globalization intensifies through trade and investment flows, questions were being asked about the underlying differences in politics and policies in various trading nations. Do different environmental regulations in one country adversely affect competitive circumstances in another country? Do harsh labor conditions in some countries constitute a source of unfair competition for workers in other countries? These two issues were a major focus of the U.S. trade-policy debate in the 1990s and in 2004 they were an important element in the presidential campaign.

In the United States these issues generated enormous controversy. Politicians supported by labor and environmental interests insist that future trade agreements should deal directly and explicitly with differences in labor and environmental policies among nations. Politicians favoring freer trade have viewed such proposals as a new and thinly veiled manifestation of protectionism, the primary purpose of which is to curb imports and discourage investment in other countries.

In the European Union, political controversy exploded over imports of “genetically modified” food and feed products, and imports of hormone-boosted beef, from the United States. The European Commission took steps to block such imports and the U.S. Administration protested that those steps were nothing more than overt protectionist actions. The controversies spread in the European Union far beyond the agricultural community to consumers of all types. Indeed, the issues were not limited to trans-Atlantic trade, as food-safety questions caused a major row between Britain and the rest of the Union over “mad cow” disease.

Well before quality-of-life questions emerged in the trade-policy debates some governments argued there were legitimate reasons for limiting the import of foreign cultural and entertainment products and services. The reasoning has been that national cultural identity should be preserved, even at the cost of denying free choice to one’s citizens. In these cases, too, the U.S.

Administration has dismissed quality-of-life arguments as just another form of protectionism.

Acceleration of the integration of markets is bringing to the fore profound questions over differences in national values. It is raising questions about the proper or legitimate role of governments in protecting the well being of their citizens. Pressing some quality-of-life questions, like labor and environmental standards, while ignoring concerns about others, such as food safety and cultural preservation, seems to objective outsiders to be a crude kind of mercantilism. International progress will be difficult to bring about without sensitivity to the underlying issues of national sovereignty and differing values.

In the next few years, the continuing process of globalization, with intensifying competition, will heighten concerns and amplify controversies in international trade relations. Until these questions are dealt with in a more coherent and sensitive manner they will be deployed by politicians as new arguments for intervention and protection of perceived domestic interests. Simply put, virtually any difference in national policy, or in national values, could become a justification for new forms of protectionism.

Thus a crucial question for future negotiations among governments, in a variety of multilateral forums, is how to handle differences among governments over public health and safety, labor standards, environmental policies, the preservation of cultures and other quality-of-life concerns. How to reconcile national differences is a formidable challenge.

Place of Interest Groups

Near the end of the 1990s, the U.S. Administration began to argue internationally in favor of broadening access to inter-governmental deliberations for interest groups in each country. One way would be through increased transparency in international deliberations. Another way would be through the participation of NGOs and special interest groups in international meetings. "Democratization" of international negotiations and dispute-settlement processes would inevitably complicate and slow down the search for solutions and the building of international agreements. It would allow special interest groups to bypass national elections, legislatures and governments in order to build international pressures – unsupported by democratic legitimacy. The outcome, under current circumstances, would be increased politicization of international negotiations, without apparent benefits.

The core problem is not the participation of special interest groups. The core problem is the extent to which national sovereignty can remain unaffected and inviolable. But we are far removed, at the beginning of a new century, from anything like

world government. So the reconciliation of national policy differences will require elaborate agreements on how to resolve differences without generating trade and investment conflicts.

As for the untouchable or unresolved issues left over from decades of international negotiations, one would hope that governments eventually show courage and allow genuine discussion of issues, even if this proves embarrassing domestically. In recent years the U.S. Administration has vigorously resisted international discussion of its competition policies, and its "trade remedy" laws, out of a fear it would open painful domestic political controversies. Yet no serious economist would defend the U.S. laws for dealing with unfair trade practices, especially the anti-dumping laws, as based on sound economics.⁷ Instead, it is recognized that the anti-dumping laws of the United States, and of other countries, have proved to be an effective way of implementing protectionism without having to establish formal import quotas or international agreements to restrain trade.

Lessons of Experience

This leads back to where the essay began. Decades of multi-lateral and regional negotiations have shown that negotiations among governments take time – time measured in years, not months. There have not been any significant [worldwide] trade negotiations that have taken less than half a dozen years, and when we look closely at the consensus-building process that underlies international negotiations, the half dozen years have always been complemented by additional years of relatively invisible preparations.

When addressing systemic issues of significance to governments, it is unrealistic to try for quick results at the negotiating table. Really, what negotiators can do at the negotiating table is the least important, the easiest, part of their work. The hard part is developing national and international consensus on what needs to be done and how to do it. This is a political, not a commercial, process.

Allowing policies and negotiating strategies to be dominated by complaints from troubled enterprises means being led by economic losers. That does not mean complaints should be ignored. What it does mean is that negotiations should be aimed at facilitating the advances of economic winners, bearing in mind that promoting economic growth worldwide must, in the long run, benefit virtually all peoples.

If governments slip back into a pattern of defending the interests of troubled enterprises, and ignore the rapid integration of the world economy, they will simply lose power over the future. A smooth-functioning and open world economy, however, does require a rule-of-law framework; and that must somehow be

administered by the only parties that have the authority to do so, namely national governments.

The principal danger today is that governments may have lost sight of what the WTO system and other multilateral economic organizations are meant to be – the framework of an international economic order. If governments continually test the international economic order with unilateral interpretations and actions, they will gradually undermine it, eventually bringing it down.

Is it possible to start all over again and devise an entirely new international economic order with new institutions tailored to the world today? In the 1970s the developing countries tried to do just that and in the end settled for participating more fully in the GATT system.⁸ To start again in the current climate of public opinion, and with so many weak governments, it would take visionary thinking and political leadership at a level not seen since the immediate post-World War II years.

It is evident, at the start of a new century, that there is little visionary thinking among governments about how to shape the world economy in the light of the accelerating integration of markets. There seems to be a leadership vacuum in nearly all major trading countries.⁹ There are endless disputes and endless wish lists for improved market access, but no conceptual themes that could be explained to national citizenries, never mind pursued at the negotiating table. Trade disputes appear to be locked into a case-by-case, complaint-driven litigating process, the kind of process with which corporate law firms are familiar. On this basis, we cannot expect governments to be effective, especially since the responses of other governments will inevitably be slow, driven by domestic political preoccupations.

As for the governments of the emerging-market countries, they continue to complain about their relatively weak bargaining positions and about alleged unfairnesses in the treatment of their trade, but there is little sign of vision or leadership among them on how to build a better world trading system. On the contrary. The primary diplomatic thrust of the emerging-market countries continues to be what it has been for forty years or more. They continue to say emerging markets should be treated differently, given their developing-country status, with preferential access to developed-country markets for their products, but with the right to maintain restrictions against imports and foreign investment to protect their business owners and workers.

This fundamentally nationalistic concept of how to govern, and how to interact with the rest of the world, is yet another example of adjustment resistance. In a number of countries, the unwillingness to adjust to a rapidly integrating world economy will condemn those countries to fall behind in sharing the benefits of global economic growth.

Many emerging markets, however, do not have the administrative capability to carry out many of the requirements for liberalization established in global trade negotiations and embodied in the WTO system. Most of them do not have the legal framework to protect property rights, resolve disputes, administer bankruptcy laws, supervise financial transparency, prevent fraud and all the rest that are essential to the functioning of market economies. The discussion of trade facilitation in the Doha Round negotiations was supposed to open the way for help from the advanced economies to the developing-country governments. There is resistance, though, in many developing countries to cleaning up their customs administrative systems, primarily because those systems are important sources of income for the bureaucrats who run them.

There is no viable alternative to embracing globalization. But to benefit fully there must be international leadership in the world economy. There must be a willingness to give full support to multilateral institutions, and to multilateral diplomacy, while setting aside the temptation to act unilaterally, however popular that might be.

Need for a New Coalition of Interests

In all countries, but especially in the United States, there is a need to build a new coalition of interests in support of internationalism. The old coalition of intellectuals and exporters has lost its power and possibly its enthusiasm. Perhaps many of the biggest business promoters of free markets in the past have now built their own positions throughout the world and do not see the relevance of governments to their livelihoods. And, as noted earlier, the "high-tech" firms that have successfully capitalized on emerging technologies have yet to take a serious interest in the development of public policies conducive to the harmonious integration of markets. Rather, they take for granted the openness of markets worldwide, which took others decades to bring about. They are not significant participants in the public policy debate – notwithstanding participation in occasional high-profile networking events. It is, instead, the representatives of the old traditional industries and enterprises that now appear to be playing the strongest role in shaping the economic policies of governments.

Leadership cannot wait for disparate interests to gather together and inspire new policies. Leadership requires action to build a coalition and guide it to support sound policies. But leadership requires more than vision. It requires political action, at home and abroad, to build support for globalization within a rule-of-law framework and orderly dispute-settlement arrangements, not a framework of continuous economic conflict.

In the meantime, we should anticipate intensified global economic integration, as well as periodic efforts by politicians to stop it or



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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slow it down. We should anticipate continuous restructuring not only of national economies but also of business enterprises, financial institutions, R&D activities, entrepreneurs and other actors. We should anticipate the new reality that economic developments in one part of the world are likely to have effects in other parts of the world in what technology buffs call "real time" – with no time delay. We should now be thinking about what an efficient global marketplace means. As for politicians, it will not be easy for them to recognize their relative powerlessness. And as for government regulators, negotiators and other bureaucrats, the global marketplace will steadily degrade their ability to influence events until they shift their focus to multilateral cooperation.

The proper task for those who would negotiate improvements in the international economic order is not to seek quick results on behalf of special interests. The proper task is to anticipate the systemic changes that are now likely, and strengthen the world order and its framework of rights and obligations to cope with those changes. There is no turning back. Technology will not allow a reversal of global economic integration.

Need for Informal Discussions

How can key governments and leading business and financial groups proceed in the complex and challenging task of promoting the liberalization of world markets? Bureaucrats negotiating on behalf of their governments cannot take bold new steps by themselves. Something different is needed. In the late 1970s and in the 1980s, towards the end of the Tokyo Round negotiations and in preparing for the Uruguay Round negotiations, an informal series of international meetings among ministers, high officials and independent experts and opinion leaders took place behind the scenes. These informal discussions enabled new ideas to be developed and incorporated in national positions without the constraints on discussion imposed by formal inter-governmental negotiations. Participants from key governments in those years generally agreed that those informal discussions were important to the progress made in GATT deliberations. Such a process is needed once again to restore momentum and avoid failure in the current Doha Round negotiations.

It is sometimes countered that there are frequent "informal" discussions among trade negotiators. That is true, but those discussions essentially replicate the discussions in formal meetings in Geneva, for many of the same participants are involved without any outside influences being brought to bear. Dinner meetings at exotic locations sometimes help, but what is often needed is "thinking outside the box", which is best facilitated by adding independent thinking.

Ultimately, the administration of the international economic order, within which the single global marketplace can function

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smoothly, is a task that trade negotiators cannot accomplish simply by confronting each other in Geneva. It is a task that goes beyond party politics in each country, necessitating broad political cooperation, domestically and internationally. It is a task that requires years of work. There is no glory in this task for individual "star" negotiators. It is a never-ending task that depends on a wide range of players over a long period of time, spanning the administrations of presidents and prime ministers, often involving changes of personalities at the top.

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- ¹ Cite Malmgren publications on non-tariff measures.
 - ² Cite the Williams Commission report.
 - ³ Cite reference.
 - ⁴ Cite informal public debate and publications.
 - ⁵ Cite publications on the results of the Tokyo Round agreements.
 - ⁶ Some would say that, just as importantly, they have a general stake in the maintenance in the world economy of a stable institutional environment.
 - ⁷ Cite literature on anti-dumping reform.
 - ⁸ Cite reference.
 - ⁹ Cite Lamy on the Quad.