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The Cordell Hull Institute, in conjunction the International Food and Agricultural Trade Policy Council, held a half-day meeting on July 15, 2005, on the next U.S. farm bill and the Doha Round negotiations.

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



Reproduced here are the luncheon remarks by **Hugo Paemen** (above) at the meeting.

About the Author

Hugo Paemen is a senior adviser at Hogan & Hartson LLP, attorneys-at law, Washington, DC. He was previously the Permanent Representative of the European Commission in the United States.

Next U.S. Farm Bill...

Is the European Union in a Crisis Again?

Hugo Paemen

WHAT is the state of the European Union following the negative outcome of the referenda on the Constitutional Treaty in France and the Netherlands and the failed meeting in June, a couple of weeks ago, of the European Council on budgetary issues? I imagine the Cordell Hull Institute is interested in the impact of these developments on American-European relations in general and trade relations, in particular, and on the Doha Round of multilateral trade negotiations most of all. I will try to sketch the general background and perhaps some elements of a response to the opening question.

Is the European Union once more in a crisis – even, this time, in a deep crisis, as some political leaders have put it?

The answer is probably yes, at least if one takes the meaning of the word "crisis" in the double sense of what its Greek origin seems to indicate – a moment of change and of important decisions. In the history of European integration, crises have become an integral part of the normal development process, which causes some veterans to prefer to call it one more, if a pretty acute, attack of growing pains.

The reality is that, for different reasons, the European Union is currently going through an important and rather difficult phase in its evolution. The dramatic coincidence, over a short period of time, of a series of challenges has been extensively covered in the newspapers – both in Europe and in America. There has been the adoption of a common currency by some of its members, the unification of Germany and the enlargement of the Union, with ten new member countries adding only 5 percent to the total gross domestic product. Then there has been a refractory economic growth in some major member states and, finally, a delicate institutional adjustment process, which is supposed to make all these developments easier to carry through.

Ambassador Paemen was earlier the Deputy Director-General for Trade in the European Commission, and the chief EU trade negotiator, during the Uruguay Round negotiations.

Earlier still he was *chef de cabinet* to the European Commissioner for External Relations, then Viscount Davignon.

About the Meeting

Farmers' dependency on subsidies in OECD countries has not changed much since the Uruguay Round agreement on agriculture entered into force in 1995, according to OECD studies reported in the *Financial Times* on June 22, 2005. Last year, subsidies made up 30 percent of OECD farm incomes, the same as in 1995, and most subsidies are still linked to production decisions.

On the 2007 U.S. farm bill, field hearings and the Secretary of Agriculture's "listening sessions", which started in Nashville on July 9, are the public beginning of preparations. The bill will have to be passed by Congress by the autumn recess next year if it is to cover winter wheat plantings.

Complicating matters are the troubled Doha Round negotiations, where the substantial liberalization of agricultural trade is being sought, and the crisis in the European Union over its long-term budget for the 2007-2013 period – with the British prime minister pressing for more CAP reform and the French prime minister declaring that "Europe was constructed around the CAP".

The OECD's *Agricultural Outlook 2005* and its latest

Additionally, there is the ambition of the European Union to play a more active role on the international scene through the establishment of a common foreign and security policy and even a common defense policy.

Some cold-blooded people will argue that a lot of these developments are self-inflicted hardships and, therefore, it is difficult to commiserate with those responsible for the European Union's affairs. That is partly true. On the other hand, those who are directly involved will explain that an integration process, like most human endeavors, is subject to a theory familiar to the Cordell Hull Institute, the "bicycle theory" generally applied to international trade negotiations. If you don't keep going you will fall over.

For the immediate future, however, the European Union seems to be entangled in three complicated issues:

First of all, there is the fact that most of its major member states have, for some years now, been suffering from lagging economic growth, against which only substantial structural reform seems to be an effective remedy.

Second, there is the need to establish, in the coming months, what is called the "financial perspective", which is the budgetary framework, integrating the ten new member states, as well as some new activities, during the period 2007-2013. It was on this issue that the most recent European Council dramatically failed in the last days of June.

Third, there is the famous institutional adjustment, which has become even more inevitable since the recent enlargement of the European Union. Some thought that this was also the right opportunity to enrich the Union with a constitution. An inter-governmental convention worked for sixteen months and produced a draft constitutional treaty that was supposed to replace the existing basic European treaties. Following the two negative referenda, the Union has taken some time for reflection on how to deal with this new situation.

All this, taken together, should be enough reason to declare a serious crisis situation. One of many questions concerns the extent to which these problems will have an influence on the external relations of the European Union and create additional difficulties, more particularly in its economic and trade relations with its principal partner, the United States.

Lagging Economic Growth

The most alarming problem is probably the growing divergence in economic growth between some poorly performing large member states and the rest of the membership, as well as the growing

report on *Agricultural Policies: Monitoring and Evaluation* tell much the same story they have been telling for years – which is that nothing much has changed. The European Union heads the table of producer subsidy equivalents with \$133 billion last year (nearly half the total OECD figure of \$288 billion), followed by Japan at \$49 billion and the United States at \$46.5 billion.

Other Speakers

Besides Ambassador Paemen, the main speaker was **Robert L. Thompson**, Gardner Professor of Agricultural Policy at the University of Illinois at Champaign-Urbana

The discussants at the meeting were: **Evandro Didonet**, Minister-Counselor for Economic Affairs and Trade Policy at the Brazilian Embassy, Washington, DC; **Frances Freeman**, Minister-Counselor for Agriculture at the Australian Embassy, Washington, DC; and **James Grueff**, former U.S. agricultural trade negotiator, now at partner at Decision Leaders LLC, a firm of trade consultants, Washington, DC.

Trade Policy Roundtable

The Cordell Hull Institute's Trade Policy Roundtable is sponsored by eight international law firms in Washington, DC: Akin Gump Strauss Hauer & Feld, Arnold & Porter, Hogan & Hartson, Miller & Chevalier, O'Melveny & Myers, Sidley Austin Brown & Wood, Steptoe & Johnson and Wilmer Cutler Pickering Hale & Dorr.

divergence with major "outside" countries, especially the United States.

The different growth patterns among the member states are not an anomaly in themselves. As the president of the European Central Bank, Jean-Claude Trichet, said while presenting the bank's annual report to the European Parliament on July 4, 2005: "The magnitude of inflation dispersion across the euro-area countries is similar to the dispersion observed in the fourteen U.S. metropolitan statistical areas... [T]he dispersion of real GDP growth rates in the euro-area has, since 1999, remained very close to its historic average, without there having been any signs of increased divergence so far. Whilst lasting real growth differentials reflect often welcome 'catching up' processes or convergence phenomena, there are cases where they are instead a reflection of structural deficiencies in some countries..." But he also warned: "Countries that show a relatively poor performance in terms of long-term growth potential and the long-term trend of sustainable job creation, are also those whose domestic economy has been less flexible. For these countries structural reforms are highly advisable."

Even more alarming is a consistent divergence in productivity growth that seems to have developed since the middle of the 1990s between those major states and their main external partners in North America and East Asia. Similar analyses have been published recently by different institutes and agencies so that the deeper roots of the phenomenon are fairly well known. But uncertainty can still exist on the relative weight attached to specific factors leading to these conclusions.

The undeniable reality is that Western Europe and, with the regional nuances mentioned, the European Union has recently been a low growth area. Hopes for a recovery in the first half of 2004 were short-lived and recent indicators of economic activity remain disappointing.

Economic analysis is also pretty unanimous on the main remedy to the disease and points in the direction of structural reform. The European institutions, and the Commission especially, have consistently arrived at the same conclusions, in both their own analyses and through external studies undertaken at its request. In March 2000, the European Council approved the so-called Lisbon strategy, which gave priority to the completion of the internal market, the promotion of innovation and knowledge and the modernization of the European social model.

In 2003, the president of the European Commission asked a high-level group of independent experts, chaired by the economist André Sapir, of the University of Brussels, (i) to analyze the consequences of the two strategic economic goals set by the European Union for the decade ending in 2010, (ii) to review the

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entire system of EU economic policies and (iii) to propose a strategy for delivering faster growth together with stability and cohesion in the enlarged Union. In 2004 another high-level group, chaired by the former prime minister of the Netherlands, Wim Kok, concluded that the disappointing delivery of the Lisbon strategy had been due primarily to a lack of determined political action. The group considered the economic, social and environmental objectives of the Lisbon agenda to be valid still, but said it should be a priority for Europe to boost its rate of economic growth and increase employment. Organizations like the OECD have uttered the same warnings as recently as this week.

This year the European Council decided in March to "re-launch the Lisbon strategy without delay and to re-focus priorities on growth and employment". Then in June it decided to put the Lisbon strategy "in the wider context of the sustainable development requirement that present needs should be met without compromising the ability of future generations to meet theirs". Last Tuesday, July 12, the ministers of finance adopted what is called an "integrated guidelines package" designed to spur growth and jobs in Europe in the next three years.

The British presidency of the European Union, which started in July, has defined its priority as "economic reform to deliver growth and social justice – a Europe better able to create jobs, higher living standards and modernized social protection". This will be done by implementing the recommendations of the Kok Report (promoting the knowledge society, strengthening the internal market, improving the business climate) and the Sapir Report, as well as the national labor-market reforms foreseen in the Lisbon agenda.

One of the chief difficulties here is the considerable complexity of the economic policy decision-making in the European Union, which takes place at the local, regional, national and European levels without a clear division of competences, which is very often a guarantee for inefficiency. Formally the main weight in these matters is with the member states, but European integration, as well as decentralization initiatives within member states, has led to an unpredictable and unmanageable process.

It has been a blessing for the success of European integration that provisions for the conduct of international trade policy have been, from the very first draft of the Treaty of Rome, totally different from the way in which economic policy-making has been organized – or, more realistically, not organized at all. I will come back on this later.

Budgetary Framework for 2007-2013

The European institutions have still to approve the annual budget of the European Union for 2006. The Commission has submitted

The United Kingdom wants to see the expenses of the CAP reduced in the context of further CAP reform (before the reimbursement issue can be discussed).

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its draft to the Council and the European Parliament. The procedure will continue until December, as foreseen by the prevailing rules.

More important to follow are the discussions on the budgetary framework for those years 2007-2013, the so-called financial perspective for that period. Preparatory work has already been done. The latest European Council in June discussed a proposal of the Commission, but it could not agree on the resources available to the European Union in support of common policies over the future financing period. Elements of disagreement were:

- the existing arrangement on the budgetary rebate for the United Kingdom, which some member states would like to end or reduce;
- the possibility of putting an absolute ceiling to the EU budgetary expenses, in favor of which some member states have formed the "club of 1 percent";
- the expenses for the common agricultural policy, which the United Kingdom wants to see reduced in the context of further CAP reform (and before the reimbursement issue can be discussed). Britain is ready to put the rebate on the table if there is a reciprocal openness and willingness to address "the fundamental distortions" in the EU budget, which were for them the justification for the rebate that Margaret Thatcher's government sought in the first place;
- the contributions by the new member states; and
- the overall structure of the budget.

All these are fundamental questions. On the financing of the CAP, an agreement was hammered out on the basis of a Franco-German proposal, which consolidated the existing situation until 2013. The discussion has now been reopened with the questioning of the British rebate, which this member state has linked to a basic review of the structure of the financial perspective, CAP reform and the financial contribution of the new member states. As the new program will start in 2007, there are some eighteen months left to find a solution to this complex but basic set of issues.

Constitutional Treaty

The problem with the so-called European Constitution could easily be classified as a "self-inflicted wound". To a lot of Europeans, belonging to very different schools of thought, it is not obvious that the European Union needs a constitution at this moment in its existence. On the other hand, this was not an entirely new idea. In the beginning of the 1980s, a European constitution was approved by the European Parliament, but it was not taken up by the other institutions.

At the heart of these initiatives is the reasonable aspiration of some to establish, in a solemn manner, the basic principles and values on which European integration should be based. The

The main problem [in the Doha Round negotiations] seems to be that at no moment since the Doha ministerial meeting have the negotiators got the feeling that the negotiations were really taking off.

Organizational weaknesses have played an important role in this, but so has the uneasiness of governments with what exactly is expected from "a development round".

A new WTO director-general, some other replacements in Geneva and capitals, as well as months of reflection, will hopefully impart the fresh impetus that the world economy clearly needs.



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).

developments that led to World War II have played an undeniable role behind this idea.

Others are of the opinion that this concern has already been met in the existing treaties and conventions. They consider it more urgent to update and adjust certain provisions in those initial constitutional texts, like the Treaty of Rome, in light of the successive enlargements and a more embracing European Union. The resulting compromise was that a convention of representatives of the governments, the European and national parliaments, the European Commission and civil society produced what is called, on the front page of the official text, as published by the Publication Office: "Treaty Establishing a Constitution for Europe" (with "treaty establishing a" in small caps and "Constitution for Europe" in big bold characters).

This schizophrenic presentation reflects the historic circumstances, the nature and the mandate of the convention that prepared the constitution. Once the front page is turned, it is immediately clear that it is in fact an updated (constitutional) treaty going back and expanding upon the initial Treaty of Rome.

The different sensitivities in the member states *vis-à-vis* this initiative are reflected in the ways in which they organized the ratification procedures. Some wanted a solemn and popular approval through a referendum and others preferred to follow traditional parliamentary approval procedures. As always, ambivalent considerations of national and European politics played their role, but the voting did not always play out as the initiators had hoped. It happened that the referenda in two of the original member states, France and the Netherlands, produced negative results.

Opinion polls have shown that in both referenda the European Constitution was not the decisive factor in the negative outcome, but rather elements of national politics. In any case, the European policy of these governments, and for that reason of the European Union as such, has undeniably suffered a serious setback, if only because of the expectations that had been created under the banner of the so-called European Constitution.

This brings us back to the crisis and to its impact on the external relations of the European Union and its trade policy.

Impact on EU-US trade relations

Trade policy has been, from the very beginning of European integration, an exclusive competence of the European Union. This explains that in all multilateral trade negotiations there was only one European negotiator. What has changed over the years is the number of countries in whose name this negotiator can speak, which has evolved from the initial six to the present 25 states.

"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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The new Constitutional treaty would make no substantial changes in that respect. Decisions would continue to be taken, not by the unanimous consent of member states, but by qualified majority. What would change is how the notion of qualified majority would be defined. This would be the case for all qualified majority decisions foreseen in the treaty. Instead of a combination of proportional votes allocated per member state, a majority vote would be reached with 55 percent of the member states and 65 percent of the EU population, which means a more proportional system. The scope of decisions to be taken by qualified majority would not expand in the trade sector, but it would in sectors like police and criminal justice cooperation.

As far as the Doha Round of multilateral trade negotiations are concerned, the latest news, coming from the mini-ministerial meeting in China, seems to indicate that they could finally take off. We should hope that the perspective of the next WTO ministerial conference, to be held in Hong Kong this December, and the latest deadline of end-2006 for completing the negotiations will concentrate minds in Geneva and fulfill the hopes created by the Doha ministerial conference.

In the agricultural sector, the European Union, like the United States, must have known that by accepting the Doha Development Agenda they were expected to be on the giving side. That the main pressure would be on sectors like cotton and sugar can't have been a surprise either. And it is known that in the past major steps in the reform of the CAP have always been made in the context of, or related to, multilateral trade negotiations.

The main problem seems to be that at no moment since the Doha ministerial meeting have the negotiators got the feeling that the negotiations were really taking off. Organizational weaknesses have played an important role in this, but so has the uneasiness of governments with what exactly is expected from "a development round". A new WTO director-general, some other replacements in Geneva and capitals, as well as months of reflection, will hopefully impart the fresh impetus that the world economy clearly needs.

And finally, President Bush defied the Europeans at the G-8 summit at Gleneagles in July 2005 to drop their agricultural subsidies by promising to do the same. It's the first time I can remember that such a comparison between the two main agricultural subsidizers has been made in the context of an argument in favor of trade liberalization instead of a justification for protectionism. This sounds like the possible beginning of a virtuous circle or, if you prefer, the establishment of an "axis of virtue".