

THE FUTURE SHAPE OF THE WORLD TRADE TRADING SYSTEM

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The ABA International Law Section has chosen as its topic *Exit With Honor: Ideas for Closing the Doha Development Agenda's Negotiating Thread and Moving On*, a title that draws a parallel between what may be an unwinnable war and possibly an unclosable negotiation, both dragging on for a decade. The twinned premises are that the war in Afghanistan is not going to build a nation and the Doha agenda is not going to yield concrete results that markedly improve the world trading system.

At present there is only one point of agreement among Doha Round participants – it is that some other participant in the negotiations is the one preventing progress. From the U.S. or at least my own point of view, the primary blockage is due to intransigence on the part of Brazil and India, each wishing to maintain flexibility to restrict imports from China. The EU view is that the U.S. failed earlier this year to grasp the opportunity presented by a compromise European proposal to lower non-agricultural tariffs, a proposal that the U.S. viewed as resulting in too little liberalization. A number of emerging and developing countries view the U.S. and perhaps the EU as being unwilling to offer sufficient agricultural liberalization including the substantial reduction or elimination of subsidies.

There was a basic flaw in the original conception of the Doha Development Agenda. It was infused from the outset with the idea in the minds of those countries that classified themselves as “developing”, that benefits would be received from industrialized countries without the need for the trade concessions received to be fully reciprocated. There did not seem to be a distinction made between emerging economies and those that had much further to go to reach that stage of development. The rhetorical goals of the Doha Development Agenda were not sufficiently limited to the requirements of the truly needy. In this, the Declaration did not take into account political and economic realities. For its primary architects, the DDA may have been seen as a noble means to rise above the sordid business swapping concessions in the marketplace of the WTO/GATT – forgetting that this untidy trading resulted in agreements that could serve the higher purpose of opening markets. Doha is all too reminiscent of the launching by Sweden in 1628 of the elegant war ship, the Vasa, a vessel so-imbalanced that it capsized within a few hundred yards of first hitting the water. At least the Vasa had the good grace to sink immediately, whereas the Doha Round is a hulk that continued to float largely submerged for ten years – unable to sail or even be beached.

Doha as such will never succeed. I freely admit that I was in the camp of those believing that it would be possible to right this Vasa. That illusion perished in the course of conversations over these last few months with negotiators from major WTO countries.

What is the future of the Doha Development Agenda?

I do not see a leading WTO member yet willing to get up and walk away from the table, not only because it would be heaped with blame for the collapse of the DDA, but because to do so would result in being faced for the first time in post-WWII history with no promise of an ongoing work program, and a more uncertain future for the WTO system. So I do not expect the major players in the WTO to simply accord the Round a decent burial. And this is not an instance in which an Antigone will suddenly appear.

For a nonparticipant, making a judgment as to what will take place at year-end or thereafter is something akin to engaging in off-track betting. Self-restraint should be exercised when second-guessing a sizeable number of the dedicated negotiators currently working in Geneva to extract a result by telling them from the sidelines what to do. As bringing the Doha Development Agenda (DDA) fully back to life and concluding it in its most comprehensive form is at this point inconceivable, logically three basic outcomes suggest themselves: 1) maintaining the *status quo*, that is continuing in some fashion to try to push on (I believe this would result in a consequent diminution of the relative importance of the WTO over time (more on this below); 2) concluding something very minimalist that is of questionable value that would then have to be oversold at home; or 3) making an attempt to fold Doha items into a broader program going forward designed to address problems that a substantial number of WTO members see as requiring future negotiation in the WTO.

The difficulty in reaching agreement on a small package (referred to by many as an organ donation from the DDA) is that every WTO member will have its own list of items that it would wish to see transplanted into the WTO. That is one of the reasons for having big rounds of multilateral trade negotiations in the first place. It is easier in theory and I think in practice to do more rather than less, because for any WTO member the consequences of not participating are then too negative to contemplate. In addition, in a large package each government can point at home to gains it received to offset costs it must incur. This system of negotiation worked from 1947 to 1994 and I believe (although I may be in a minority) that it is an approach that should if at all possible be reverted to at some time in the future.

To be clear, if U.S. Ambassador Michael Punke and his opposite numbers can pull off anything substantial and beneficial in a salvage operation, I would join in cheering for them in a tickertape parade and they would deserve it. I wish them well in their efforts. But it will be very difficult to engage in a salvage operation for the reasons just given.

One idea that has been suggested is that an 11th-hour attempt be made to bridge the gap between all, something and nothing. This hybrid approach would consist of industrialized countries giving the developing world something now on a temporary basis – e.g. generous removal of a few long-standing developed country trade barriers -- with the notion that the expiration of these largely unilateral temporary concessions would be greeted a year or so later with some form of reciprocity from the grateful recipients. Why the latter's surrendering reciprocal trade concessions later becomes much more attractive to them than it is today is not satisfactorily explained. The U.S. Congress just might suspect that the real plan is simply for the industrialized countries -- having given their temporary concessions and having made the domestic economic adjustments necessitated by facing new international competition -- to later be asked to extend annually this unrequited trade liberalization. Why Congress would travel down this road has also not been adequately explained.

There are a number of possible explanations for the lack of movement on Doha. For one thing, there is not enough on the table. No government seems convinced at present that the negotiation holds enough promise to warrant taking large political risks entailed in committing to expose vulnerable sectors of its economy to increased international competition without the promise of reciprocal action that can at least be sold at home as being worth making the trade. The developed countries do not feel that they have much more to give other than in a few sensitive areas; the emerging countries (in this case primarily Brazil and India, but also a number of developing countries) do not relish committing to major liberalization to which they would be contractually bound; and all are concerned with China's rapidly increasing role in world trade given the nature of the organization of its economy and its competitive strengths. I do not credit worldwide recession as a central reason for lack of progress. After all, the U.S. began its series of trade liberalizing negotiations in 1934 as an antidote to the Great Depression.

I agree with those who argue that whatever happens, the WTO is important and will persist. However, if there is not a clear path to multilateral agreements, other paths will increasingly dominate the activities of trading nations, and the relative (rather than the absolute) importance of the WTO will decline.

The future shape of the international trading system

I think it likely that instead of a new WTO multilateral round or even a pledge to work toward one, there will instead be an increasing effort made to conclude bilateral or if there is more ambition, plurilateral arrangements, among the like-minded to establish a binding consensus on a new set of rules for at least their trade and investment relationships. Bilateral arrangements are multiplying now like rabbits¹. At some point,

¹ Japan's approach to the EU for an FTA or some sort, the EU-Canada CETA negotiations, the EU Chile Association Agreement, EU-Korea FTA, the three pending US FTAs (Korea, Colombia and Panama), the EU-South Africa EDCA, the EU-Mexico EPPCCA, the EU-ASEAN FTA, the EU-GCC FTA, the EU-India FTA, the EU-Malaysia FTA, the EU-Singapore FTA, the EU-Ukraine FTA, etc.

some gathering together of these strands is very likely to take place, as is now being attempted with the Transpacific Partnership (TPP).

Whether there will be enough leadership among a number of the key players to engage some day in a Bretton Woods/Havana Charter II kind of multilateral effort remains to be seen. I think that it will take at a minimum several years to get to that point. If it does occur, which I think more likely than not, it will build on the plethora of bilateral agreements and potential plurilateral arrangements, and in some cases, just supersede them.

The unaddressed issue is the role that the most-favored nation (MFN) clause should play in the world trading system going forward. It is the cornerstone of the WTO/GATT for trade in goods and somewhat less so for the WTO/GATS for trade in services. There has been a move in a variety of WTO agreements -- one being the Government Procurement Agreement (GPA) and another being the Information Technology Agreement (ITA) -- toward agreements signed only by the like-minded. A difference between the two examples is that the GPA is non-MFN in its application (applying solely to signatories) whereas the ITA is MFN, its adherents granting the benefits equally to WTO members whether or not they are signatories.

The likelihood is that a pragmatic approach will be taken as to whether any given plurilateral agreement is MFN or non-MFN. I worry about a trading system that moves too far away from its MFN foundation. It is ironic that MFN was used by Qing Dynasty China as a tool to play foreigners off against each other, according to Henry Kissinger's new book *China*, in an era of unequal treaties imposed on a weak China, as opposed to the case today, when other countries might wish to move away from MFN in order to enter into trading arrangements that exclude China.

One of the things that disturb me about movement to a world trading system increasingly characterized by non-MFN sub-multilateral agreements was captured in a statement made by a senior Korean Trade official at the time when the Korean-U.S. trade agreement was first considered for negotiation. He said that his primary purpose in Korea's entering into the negotiation was "trade diversion". Contemplate if you will a trading world built upon that one precept rather than on the principles of most-favored-nation and national treatment. It is reminiscent of trading arrangements that the United States found in an earlier era to be adverse to U.S. commercial interests: -- Britain's imperial preferences and the discrimination against American goods inherent in the formation of the original European Economic Community².

For me, trade diversion will remain a troubling aspect of free trade agreements to which the United States is not a party. Europe now hopes to have preferential access through its FTA with Canada to Canadian provincial procurement -- rendering U.S. trade arrangements with Canada inferior in some respects to the one negotiated by the European Union. An agreement that gives European goods and services an opportunity

² A price the United States was willing to pay to enhance the prospects for peace in Europe, provided that there was the prospect of continued MFN trade liberalization in subsequent GATT rounds of negotiations.

to displace otherwise competitive U.S. goods and services just across the “longest, most open border in the world” is hardly the fulfillment of any rational concept of free trade. This is not the fulfillment of the world the 1947 planners of the post-war trading system had in mind, where free trade agreements and customs unions, each a derogation from MFN, were designed to foster regional economic integration, especially among neighbors who had a tendency to go to war with each other.

The practical problem for companies is operating in a world that is, on the one hand, globalized by advances in transportation and the internet and, on the other, repeatedly bisected repeatedly by a welter of bilateral and regional trade agreements, each containing its own rules of origin. The result will be a distortion of rational patterns of trade and investment, but that may be the only way forward toward trade liberalization.

One could argue that it was indisputably good for America as the only major industrial nation still standing in 1947 to dictate a system in which there was nondiscriminatory openness and that that era has passed. So the question may be asked whether MFN as the foundation principle of American trade policy is still in the country’s best interests in a multipolar trading world. After all, many nations’ industries are at least equally competitive with our own, either on an overall basis (as measured by the U.S. global trade deficit) or on a sectoral basis, and in some cases, more competitive. For all the reasons stated above, I believe that MFN still deserves to be sought wherever it is feasible and can provide the most positive outcome. But, that having been said, bilateral and plurilateral liberalization on a non-MFN basis is better than no further liberalization. And if no global consensus – or consensus among the WTO big five (U.S., EU, China, Brazil and India) – exists for moving forward on a multilateral basis, then there is no real alternative to working to make progress on a sub-multilateral basis.

The further alternative, a long pause in negotiations, is really no alternative at all for the world trading system or for the United States. For the world trading system, bilateral and regional agreements will continue to be negotiated by others. For the United States, not negotiating is simply allowing U.S. trading rights to be further eroded.

The future agenda for international trade negotiations

There is much yet to be accomplished in terms of international agreements on trade and investment. Doha addresses only a few of the most important *lacunae* in the international trading system.

1. Environmental goods and services. It would be in the common interest of all to put into place an agreement for duty-free, distortion-free trade in environmental goods and services, without looking too closely at the balance of concessions from a reciprocity or mercantilist point of view. Some products should simply be viewed as being in the nature of public goods. Entrepreneurs should be rewarded for producing them, but consumers should not be taxed for purchasing them. The trading system should encourage this trade. Doha could yet yield that result at

least on a signature-ready basis (if there is no small package of agreements in which to include it.)

2. Agriculture. Another Doha agenda item is agricultural market access and reduction of trade-distorting subsidies. While national budget concerns may well make curbs on agricultural subsidies much more achievable, perhaps for the first time, and a large enough package might make tolerable substantial cuts in historically protected product sectors, there is not enough on the table or in prospect of being put on the table in agricultural, industrial or services access in Geneva in the foreseeable future to make dramatic change possible. I believe that such change is possible, that the industrialized countries, including the United States, could make the necessary political decision to make major changes if there were a large enough package of new trade opportunities. And this is exactly what is wrong with the notion of the small package. It is critical mass that brings a break-through, not a minimalist approach.

But agricultural market access and curbing subsidies are only two aspects of the agricultural challenge. While still freighted with emotion and economic interest on the part of most WTO participants, these issues do not address the most fundamental agriculture question, food security, especially in a time of increasing fluctuations of climate and crop yields, and growing demographic pressures on the supply of food and animal feed.

3. Food security. I was recently told by an Indian official that food was not primarily a trade policy subject; it is a matter for governments of their own political survival -- to meet the most basic needs of their peoples. Perhaps he meant that governments can only remain in power and civil order maintained if affordable food is available. This is the argument used to justify special safeguards on agricultural exports when food prices spike. But engaging in competitive export restrictions on food and feed is not the best solution to the problem of dealing with problems of scarcity. What is needed is the opposite, fair allocation of existing supplies by all. New rules should be negotiated curbing export restrictions, not more liberal rules allowing export restrictions.
4. Non-Agricultural Market Access. While it would also be very good to lower barriers to trade in non-agricultural goods (NAMA), this seems to be at present even less possible than when the DDA began a decade ago. As noted, part of the problem would appear to be fear in India and Brazil that they need freedom to increase their tariffs to their higher contractually bound rates to deal with competition from China. But if this is a problem for these large emerging economies, it is even a greater concern for pre-emergent developing countries. This might be dealt with by restoring flexibility to safeguard rules – including selectivity (that is permitting actions taken with respect to some sources of supply and not others in special circumstances). What seems have gotten lost in the current WTO rules is that access to contingent protection is the price to be paid

for permanent broad contractually bound liberalization. The solution is not to outlaw or greatly limit contingent protection but to regulate it, fairly.

As it stands, for the most part liberalization of trade in industrial products is mired in seemingly irreconcilable differences, demonstrated by ten years of trying unsuccessfully to narrow gaps in positions. Given that there are a lot of highly talented people in Geneva trying to come up with some results at present, it would be presumptuous in the extreme for me as an armchair spectator to venture to provide a solution – other than to increase the size of a final package. I am not sure that there is solution within NAMA – but if there is, it is unlikely to come from pundits.

There are a series of matters that cry out for international agreement that are not being addressed by the WTO negotiations. These are not listed in order of importance because they are all important:

- 1) Food and product safety. The approach to date has been to try to prevent countries from imposing unreasonable sanitary and phytosanitary restrictions as barriers to trade. Fair enough. But it is even more important to have products produced safely in the first place by agreeing on minimum standards, and procedures to apply these standards.
- 2) Equitable sharing of raw materials. The increasing global pace of industrialization calls for meaningful disciplines on export restrictions. Sumitomo gave us a positive example of equitable sharing internationally after an explosion disabled its plant that produced silicon for making semiconductors³. China has not shown the same consideration in its unilateral decisions regarding rare earths.
- 3) Climate change related border measures. There will increasingly be national rules governing the restriction of carbon-intensive goods. Either there can be some discussion and resolution of an international code of conduct on how trade will be dealt with when national measures are imposed, or there will be increasingly contentious international disputes. It would be wholly inappropriate for the WTO members to leave the construction of rules to be set through the vagaries of case-by-case determinations by the Appellate Body.
- 4) ICT and cross-border data flows. Information technology goods and services are being dealt with as if they were like any other matter within the WTO system, while issues surrounding cross-border data flows are barely being addressed at all. Information technology and communications (ICT) products and services are the great enablers of innovation and development. Dealing

³ “Japan Factory for Making Chip Material Destroyed”, NYT, ANDREW POLLACK, July 05, 1993.

with the movement of electronic information across borders is becoming ever more important.

A new generation of networked technologies enables greater cross-border collaboration over the Internet but leaves individuals and companies that attempt to do so encumbered with the need to deal with a patchwork of national laws that can be contradictory and/or confusing. ICT, meanwhile, is something of a WTO stepchild – thought of as a matter of interest only to producers of these goods. This demonstrates a lack of understanding of the contribution of digital goods, services and information to individuals and companies everywhere and the effect they have on national growth in GDP. The effect is estimated by Dale Jorgenson of Harvard to be one-half of one percent additional growth for the United States and by the World Bank to be between two and three percent for developing countries.) It is well known that the deployment of some 700 million cell phones in Africa is helping to drive development in that continent. Not only should telecom goods and services be duty-free, but users should have reliable and secure access to the data that flows through them. Digital goods also should be free of internal taxes as well. This would be a radical step for the WTO, but taxing a goose that lays golden eggs on its yield is contrary to basic nursery school training.

Much of the explosive growth in beneficial applications of information technology has been enabled by the absence of government regulation. There will be a variety of worthy (e.g. reasonable privacy concerns) and less worthy (e.g. protectionism) motives for governments to begin to regulate transborder activities with respect to ICT goods and services. The WTO working group on E/commerce should be charged with examining the proliferation of national measures that would restrict the growth of this sector and the international exchange and economic stimulus that it supports.

- 5) Rules on FTAs. Free trade agreements should be subjected to serious review by the WTO before going into force. They should be judged on the basis of their potential for trade creation. At a minimum the agreements should live up to the current rules. Free trade agreements are, after all, derogations from WTO obligations. MFN should not be allowed to become largely a 20th Century artifact without some debate, although as a practical matter, that is where the world is headed. It is said that the failure of Doha does not directly harm the WTO as it stands, and in that I agree – but the failure of continuing to set multilateral rules applicable to the extent possible to all trade is eroding the position of the WTO in the world trading system. As noted, the erosion will only accelerate.
- 6) Currency manipulation. GATT Article XV provides that exchange rate action is not to frustrate the objectives of the GATT. It may be that trade ministers will not be allowed by finance ministers to even discuss whether this rule has been infringed even by a 20-40% undervaluation of the largest exporting

nation's currency, but trade and finance ministers should both address the problem of chronic large undervaluations. It makes a mockery of the grand successes in tariff elimination that the GATT and WTO have achieved over decades of negotiations to permit sustained undervaluations of major currencies to persist. They must be recognized, condemned formally, and corrected. In this the IMF and the WTO should have some form of shared responsibility.

- 7) SOEs, SSEs. Just as Japan presented a set of challenges as a member of the GATT, having organized its economy with “liberalization counter-measures” (its term) to nullify the benefits of its trade concessions, there are a variety of very substantial uses of state-owned enterprises (SOEs) and state-supported enterprises (SSEs) that frustrate the letter and spirit of the commitments that China made in joining the WTO. There is nothing in the current WTO that appears to be equal to the task of dealing with this new end-run around the international trade rules. And it is not just China that is the problem in this regard. Substantial segments of world trade are distorted by governments through the use of these mechanisms. No 21st Century trade agreement should fail to address this set of issues.
- 8) Standards. Product standards can and do prevent trade altogether when used to confer protection. National standards can wall off a market, but are double edged swords, rendering the domestic beneficiaries less competitive internationally while giving them a major advantage in competition in their home market. The Agreement on Technical Barriers to Trade (TBT) is largely ineffective in coming to grips with standards as protectionist devices.
- 9) Fishery subsidies. There are few areas where the absence of international trade rules causes so much damage to the planet as the lack of regulation of fisheries subsidies. With an estimated \$16 billion dollars being granted annually by governments in these subsidies, many governments are paying their fishing fleets to fish longer, harder, and farther than would otherwise be possible. If this level of fishing continues, the kinds and quantities of fish that we eat today could be gone within our lifetimes.
- 10) Intellectual property protection. Innovation is the hope of the future. It will provide the food, feed and new products services that improve life and in many cases save lives. Intellectual property protection is one of the central components that drive innovation. While some strides have been made by the existence of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), it, like the standards code, is to a large degree ineffective in providing the benefits it would appear to offer. In vast areas of the world it is honored in the breach rather than in terms of its enforcement. The Agreement was a start, but it remains a weak instrument that needs to be bolstered. I do not suggest that it be re-negotiated, which could weaken it further, but that WTO commitments to enforce IP be upgraded in a new, separate instrument.

- 11) Anti-competitive practices. There is so little consensus on competition policy among the 153 members of the WTO that this is not an area that should be considered for negotiation within the WTO. Nevertheless two areas deserve WTO consideration. The first is government toleration of private restraints of trade that result in market closure or other trade distortions. This absence of government enforcement of competition policy is simply a substitute for other forms of protection or subsidy. Such practices should be the subject of careful monitoring and a clear WTO remedy should be provided, perhaps through the introduction of a provision fostering in appropriate instances the use of nullification and impairment cases under the WTO's dispute settlement provisions where a government tolerates anticompetitive conduct to protect its market or otherwise advance the competitive strength of its industries. The second area of concern is misuse of competition policy to discriminate against foreign trade and/or investment. Abuse of competition policy is an all too readily available means to circumvent WTO market access commitments.
- 12) Trade in services. For as many service sectors as possible, negotiation of a major services agreement using a negative list approach – that which is not listed would be automatically liberalized -- should begin as soon as possible. As a practical matter, success in this endeavor will be more likely if benefits are restricted only to signatories. A large plurilateral agreement of the like-minded on services should be a major project for 2013 and beyond. The GATS was a brilliant start, but only that.
- 13) Government procurement. Adherence should not be optional and a negative list approach should be employed.
- 14) Investment distortions. Trade and investment are inextricably linked. If TRIPS and TBT have fallen short of perfection, they are far superior to the one of the least effective of the WTO's family of agreements – the Agreement on Trade-Related Investment Measures (TRIMS). Investment is an area of essentially unregulated state intervention to the detriment of the world trading system. A major problem identified by the OECD in the case of China is forced technology transfer -- the conditioning of investment on the nature of the technology to be imported and the requirement that it be disclosed, and often shared with a local joint venture partner. Few of these instances come to light and dispute settlement is not as a practical matter available. The transfer of technology may be accepted by investors as the price for gaining permission to invest in one of the world's largest and most rapidly growing markets.

Forced technology transfer goes beyond the normal bargaining over locational grants or tax holidays, designed to reduce the risk of making the investment. The result at worst is extortion and loss of valuable intellectual property and at best the location of business activities not economically justified absent the

coercion. The result, however, may be adverse for China as well, as companies decide to keep their core technologies out of their Chinese plants and R&D centers.

Global misallocation of resources due to state intervention in investment decisions by private persons is not a positive outcome for the world economic system. Better rules are needed to address these government measures.

- 15) The national security exception. Trade agreements include an exception for acts deemed necessary to serve the security interests of each signatory. However, care must be taken that this exception does not become a tool used for protectionist purposes. This has become an increasing risk as consideration is given (again the case in point is China) to restricting participation of commercially available foreign IT products and services in certain civilian segments of the market. National security should not become a means to promote industrial policy at the expense of WTO market access commitments.

Conclusion

How to get from here to there? Is it possible to set a re-start button for Doha? I think not. If the negotiators can bring some results to conclusion in the near term, that would be fine. That would take a large leap at present, requiring the leadership and full participation of China, the EU, the US, India and Brazil. (A quint instead of a quad). But the result still must be saleable back home for each of these participants and to a degree supported by the WTO membership at large. It would only cause great damage to arrive at a package that is in fact not saleable. Any result would need very broad buy-in.

What is the more likely course that trade negotiations will take? First there will be a proliferation of FTAs and some plurilaterals, and when those either become sufficiently onerous -- tying world trade into knots of rules of origin -- or better, promising -- delivering so much gain for signatories that to be left out is considered detrimental by increasing numbers of nonparticipants, there may be a re-kindling of interest in global talks.

It is now unclear when if at all it will be likely that a critical mass of WTO countries including the major trading nations will reach the conclusion that global agreements to further trade liberalization are essential. They would have to reach a stage of maturity or be driven by political and economic interest to attempt an approach more ambitious than the Uruguay Round, as the Bretton Woods era countries did in Havana in 1947. There is little feeling in the air at present of a new Bretton Woods era.

Of the five major trading countries listed above, none are ready to either join in or lead this effort. Years of consensus building will be needed. These five may be prodded, if not driven, toward seeing a need for global arrangements by advances in technology

further redistributing various kinds of productive activity and changing their interests. Globalization and the importance of supply as well as market access have already wrought enormous changes in trade flows and interests not contemplated when the GATT, the WTO and Doha were conceived. China may at some point move toward greater openness, for example, after its internal pendulum swings back from developmental state capitalism. (Although that point does not seem near at hand, there is some healthy debate within China on a number of subjects – the role of IP protection in promoting innovation, or competition policy to permit market forces a greater role in determining competitive outcomes. But those are not the current dominant themes within China.) The U.S. and the EU may have increasing interest in bilateral arrangements to expand their economic integration, and at some point become firm partners in exercising leadership toward eventual multilateralizing of whatever progress they can make between themselves.

In the meantime, bilateral and regional trade agreements will continue to occupy much of the energies of trade officials. The regular work program of the WTO (not part of the Doha negotiating committees) will continue and perhaps expand to address some of the issues listed above. Dispute settlement may be seen as a useful avenue to make improvements along the way in adherence to the current rules.

What should be done beginning now is preparation for global agreements even while negotiating bilateral and plurilateral agreements. It is time to begin the debate on U.S. legislation of new implementing authority for trade agreements (not limited to authority for bilateral or plurilateral agreements). There should be intensive hearings, reports of commissions, and studies on the optimal global trade architecture and its elements. Discussions should be held with our trading partners. Plans should be made and roadmaps drawn for dealing with current and foreseen challenges where the WTO rules are inadequate, preparing for the time when there can be adoption within the WTO of a work program geared to deal with the trade problems that will dominate this century, building on whatever progress was made in Doha and discarding what proved unworkable. There is much to be done, the needs are great and the work should begin now.