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# No. 4 - Agriculture and the WTO: Subsidies in the Cross Hairs

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*Occasional Papers*

# Dean Rusk Center

University of Georgia School of Law

*Number 4*

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*The View from the Private Sector*

*The Need for Reform - A View from Capitol Hill*

*Agriculture and the Doha Round*

*WTO Dispute Resolution: The Cotton Case*

## Agriculture and the WTO: Subsidies in the Cross Hairs

September 2003 saw trade talks pursuing the Doha Development Agenda at the Cancún WTO Ministerial Meeting collapse, primarily over the disagreements between rich and developing countries regarding agriculture. Despite the great pessimism that ensued, on August 1, 2004, WTO negotiators from 147 countries announced a breakthrough in negotiations to liberalize trade in agricultural products. The most striking aspect of this new framework agreement is the proposed elimination of agricultural subsidies by rich countries in return for developing countries opening up their markets to more imports. At the same time, WTO dispute resolution panels have delivered stunning decisions against the U.S. cotton subsidy program and the European Union's sugar subsidies.

Clearly agriculture trade policy will be a pivotal issue determining the failure or success of the Doha round. This conference featured noted experts from senior levels of government, the private sector, and the legal profession addressing current developments in multilateral negotiations and the WTO cases on agriculture and analyzing their impact on the future of the world agricultural market. It was presented on November 16, 2004, at the University of Georgia School of Law by the *Dean Rusk Center–International, Comparative, and Graduate Legal Studies* and the *College of Agricultural and Environmental Sciences*.

## The Dean Rusk Center

The Dean Rusk Center for International and Comparative Law was established in 1977 to expand the scope of research, teaching, and service at the University of Georgia School of Law into the evolving international dimensions of law. In 2000, it became the Dean Rusk Center – International, Comparative, and Graduate Legal Studies as it merged with the law school's International and Graduate Legal Studies program to capitalize on the combined strength of the two units. Today, the Dean Rusk Center plays an active role in the international arena by hosting conferences and visiting scholars and by undertaking international research and outreach projects. Through these activities, the center seeks to provide a sound basis for policy judgments, to increase international understanding, and to contribute to the solution of problems and issues of global significance. The center's impact is evident on a multitude of levels. At the School of Law, it serves as a forum for the exchange of ideas and the development of international projects among students, faculty, staff practitioners, and alumni. For UGA, the Dean Rusk Center works to expand academic synergy between law and other disciplines. To aid the State of Georgia, the center seeks to be a complementary resource for collaboration on trade issues and their impact on the state and region as well as for promoting Georgia's effective involvement in international trade and investment. At the national level, the center collaborates with academic, professional, and governmental legal institutions to promote the integration of parallel efforts in international and comparative law. Globally, the Dean Rusk Center plays an active role in exchange and outreach. Collaboration with universities, judiciaries, and governments around the world has bolstered institutional reform, capacity building, and legal scholarship.

Further information regarding the Dean Rusk Center – International, Comparative, and Graduate Legal Studies is available on the center's web page: *www.uga.edu/ruskcenter* or by writing to the center.

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UGA College of Agricultural and Environmental Sciences

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*David Frederickson*, President, National Farmers Union

*Jon Huenemann*, Senior Vice President,
Fleishman-Hillard Government Relations

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**C. Donald Johnson**: On behalf of the Dean Rusk Center and the College of Agricultural and Environmental Sciences, welcome to our conference, *Agriculture and the WTO: Subsidies in the Cross Hairs*. In recognition of the growing importance and evolving dimensions of international law, the Dean Rusk Center was established in 1977 in honor of Secretary of State Dean Rusk, who was on the faculty here for nearly a quarter century, following his service to the country. Among other activities, including research, graduate studies, international judicial training, and foreign exchange programs, the Rusk Center plays an active role in the international arena by hosting conferences such as this one, seeking to increase the international understanding of international law and policy decisions by contributing to the solution of issues of global significance. In doing so, we think it's important not only to bring in academics to academic conferences but to bring people who are actively involved in the process and those who are affected by the process. In other words, this is not a conference that is simply for academic discussion.

In order for this conference to be successful, we have called upon some interdisciplinary help from our friends at the College of Agricultural and Environmental Sciences. Dean Gale Buchanan, who, unfortunately, had to be on the west coast today at another conference, and his assistant dean, Dr. Robert Shulstad, among others at the College of Agricultural and Environmental Sciences, have helped us put together some excellent panels of senior government officials, private sector, and the legal community who are drawn from the center of the debate on the issues that we are discussing today. We also have Congressman Cal Dooley, who is widely respected on both sides of the aisle for his perspective on agriculture and trade, who will give the keynote remarks on the need for reform in the area of agricultural trade.

It should be a very lively and interesting discussion, and, of course, we will welcome the participation of the audience at the appropriate time. Sometimes these trade conferences draw discussions from the audience at inappropriate times, as we've seen in Seattle and elsewhere, as those who have been at World Trade Organization (WTO) conferences know. I also want to give a word of thanks to members of the Dean Rusk Center staff, Associate Director Dorinda Dallmeyer and our able editorial and office manager, Nelda Parker, for all the work that has gone into putting this conference together.

I now would like to bring to the podium a friend of mine for several decades and a friend of the Georgia farmer for even longer, Tommy Irvin, who has been a public servant for almost forty-eight years. He was first elected to public office back in 1956 when he was elected to the Habersham County Board of Education. He later served four terms in the Georgia General Assembly. By the way, we have a member of that assembly here today, Brian Kemp, who is our state senator and just got re-elected; and that's not an easy task, as I can attest. Tommy Irvin was telling me the other day that in his first term he was privileged to go to the Democratic Convention that nominated John Kennedy as the presidential nominee, so he has had long experience in public office. But most importantly for our purposes today, in 1969 he was first elected Commissioner of Agriculture, and he has been reelected ever since.

He is now the dean of Georgia's constitutional officers, and he is the dean of all ag commissioners in the nation. Among his many awards, he has been named *Progressive Farmer* magazine's Man of the Year in service to agriculture, and here at home he's in the UGA College of Agricultural and Environmental Sciences Hall of Fame and many other halls of fame. Just this morning he was named to Habersham County's Hall of Fame. He has been a tireless worker in getting Georgia's produce in markets around the world. Most recently, he has been working to get Georgia's produce into Cuba, and that's not an easy task in this political environment. I ask you all to help me welcome Tommy Irvin to introduce this program and to welcome all the non-Georgians here to Georgia.

**Tommy Irvin**: Sometimes I don't know whether to call him Congressman or Senator. Senator sounds more important, doesn't it? He's been both senator at the state level and member of Congress. This is a very distinguished panel you have here. Maybe we can give them some real challenges today.

As Don told you, I had double duty early this morning. My home county has, as many areas throughout Georgia have, an observance called Farm City Week. It's sponsored by our Farm Bureau, Chamber of Commerce, Kiwanis clubs, and Rotary clubs in our community, and I suppose in other parts of the state it has different sponsorships. They absolutely surprised me this morning. They got me to come give the welcome at seven o'clock this morning. They gave me a very special award. I'm very proud of it.

In my short remarks I gave so I could get here on time, I told them that everything begins somewhere, but most things begin at home, especially in your home community. If you recognize how important people help you get started, Senator, you'll stay around a long time. We're looking forward to having Senator Brian [Kemp] to be a very integral part of things that happen in the Senate for the field of agriculture and agriculture marketing. I've been very, very involved in agriculture marketing ever since I've been fortunate to be an ag leader in our state. I tell people from time to time that many, many years ago I'd make speeches to farm bureaus, Rotary clubs, Kiwanis clubs, and other civic clubs, and I was advocating doing business back then with the Soviet Union. And I promise you that when I'd open it up for questions, somebody would get up and say, "Oh, you want to do business with the communists." I'd say, "No, I want to do business." How can you justify doing business with the communists? It is my belief that if you get somebody established in trade, and trade is so awfully important, and get them needing what you have to supply and develop a marketing relationship, they won't be sending rocket ships over to pick it up. And I promise you, I turned that meeting around basically in favor of that image and that talk.

A few years ago I told one of the individuals in a very prominent agri-business, who was in the audience this morning when I received the award, that we've been invited back to Cuba to celebrate the first trade relationships we established with Cuba in the agriculture field. I don't know whether I'll be able to get it on my schedule, but I put it pretty high on my list of things to try to do because I believe now that politics is kind of behind us. We all do things in politics to make sure it's politically correct, but we should make an effort to really try to open that country up to agriculture trade, and I think we can do that. The fact that we're the closest to it and we have a lot of things that they need in that island nation, make me believe that it can be very prosperous for us and very beneficial for the Cuban people. So I give you that challenge as something for you to work on, as a high level of influential people at the national level, to assist in, maybe, getting a change in mindset and we can go make that second step and sell them things other than just food. We can sell them many other products that we have here in a state like Georgia. I say one of those is forestry, because some of you who know me well know I used to be in the lumber business and I still have a great fondness for that industry.

I'm delighted to be here this morning and to be more of a listener and try to retrieve and get some information that we can apply to our job as Secretary of Agriculture in Georgia to help us sell our products throughout the world. One of the things I did many years ago, I was one of the earliest states to establish an international trade division within the department, and I think it has been a wise move. We have one foreign office in Brussels and I know that things and marketing opportunities change around a little bit, but there are other parts of the world that are going to be very advantageous to us to develop marketing relation-ships. A meeting I had about a week and a half ago was with the governor's chief of staff and the commissioner of the department of community and economic development and a couple of other people in attendance, trying to make sure that we give our governor the right information to help assist us in opening markets from China and other parts of the world. I think there are wonderful opportunities. I tell folks that if we're going to buy underwear from China, we want to sell them the cotton to make it out of. Since you may know that we're the second largest cotton-producing state in the U.S., it's going to be very beneficial to our cotton farmers that we get our handle on that market and hopefully make that connection and make sure that, if they need any raw products, they buy them from us. So there's a world of opportunities and a lot of great challenges that we need to look forward to in the next few years. And I think these next four years that stand before us under the Bush administration can be used to help us cement relationships that will be beneficial to agriculture and our marketing scheme.

So I'm delighted to be here and give all of you a welcome to the great University of Georgia. I tell folks it has grown so much that you have to ask somebody where whatever room you're going to meet in is. The first two people I asked where this room was, they didn't know. But I finally found somebody who did and I found you. By the way, good to see you come in, Abit Massey; I've already mentioned chickens. I know there's one on your plate. I've already mentioned cotton, too. There are a lot of other commodities we are very productive in. I think one of the great things about a state like Georgia is that we're highly diversified, and we're looking for opportunities to do more for our farm families and for the consumers that we supply food for all over the globe. One of the slogans I developed years ago: we were anxious to see the time come when we could produce food and fiber here in Georgia and serve the food on dinner tables all over the world. I think that's a mission we should always keep in the forefront; and if we work our efforts properly, we ought to see it come to fruition. So thank you very much for inviting me to give you the welcome. I'm looking forward to the rest of the program this morning. Thank you very much.

**Robert N. Shulstad:** I'm Bob Shulstad, Assistant Dean for Research, College of Agricultural and Environmental Sciences, and I'm extremely pleased that we're able to collaborate with the Dean Rusk Center in providing this forum. The WTO decision relative to cotton is just one indication of potential changes for marketing agreements throughout the world, and, unfortunately, every marketing decision influences almost every commodity producer. Whether you're a farmer in eastern Europe, Brazil, China, or the United States, farmers face uncertainty every day of the week. Whether it's environmental uncertainty because of weather conditions, political uncertainty, strife in the community, everyone is trying to make a profit to make a living in agriculture. The World Trade Organization was created to try to work out agreements between countries. My background is in economics; and the basic principles of trade are that if we can all trade together and everybody produces that product where they have the greatest comparative advantage, fewer resources will be used in the production of each of those products, and, through trade, the overall well being of the traders will be increased. We can do that across the world; the well being of each of those individuals should be increased. Consumers will be the ultimate beneficiaries. But when there are barriers to trade, internally or externally, imposed by a producer's government or someone else's government, that decreases the efficiency of that market. And the people most impacted by that are the producers; higher-cost producers often are protected, low-cost producers are excluded, and customers pay a higher price.

We are starting out today's program with what we call the *private sector* panel. We have represented on our panel the two largest farmer representative groups in the nation as well as a highly experienced former government official in U.S. trade relations. I'm going to introduce each of the three before we start, and then we'll proceed to their comments individually. They'll each have about fifteen minutes.

We're going to begin with Bob Stallman. Many of you are very familiar with Mr. Stallman. He's the rice and cattle producer from Columbus, Texas, serving his third term as president of the American Farm Bureau Federation, the world's largest general farm organization. He serves as the eleventh president of that organization, and it has been around for eighty-five years. He was first elected in the year 2000 and is the first president to come from Texas. I'm not sure how he didn't make it to Texas A&M, but he's an honors graduate from the University of Texas, and he joined his family farm operation in 1975. He quickly assumed leadership roles in the Farm Bureau and became a member of the board of directors in Colorado County, Texas, in 1977 where he eventually served in all officer positions within that organization. He served in many state and federal organizations; and in 1996, then-Texas-governor George W. Bush appointed Mr. Stallman to the Citizens Committee on Poverty Tax Relief. That same year, Mr. Stallman was appointed by then-agriculture-committee-chairman Pat Roberts to the Commission on Twenty-first Century Production Agriculture. The panel proposed recommendations on farm policy for Congress and the administration. Many of those recommendations were adopted and appear in the current farm bill. In 2002, he began serving on the board of directors of the American Council for Capital Formation, an organization highly regarded for the role it plays in the debate on tax and environmental policy. He also was appointed to serve on the Agricultural Policy Advisory Committee for Trade that provides the Secretary of Agriculture and the U.S. Trade Representative's office information and advice on trade negotiation objectives. In 2001, he was appointed to the advisory committee for international economic policy, the State Department's principal advisory panel regarding international economic issues. And in 2002, he also became a trustee for the Farm Foundation, one of the most influential nonprofit organizations looking to improve the well being of all U.S. agriculture and rural people. He also serves on the advisory board for the World Agricultural Forum. While he is a graduate of the University of Texas, he serves as a member of Texas A&M's College of Agriculture Development Council and is co-chairman of the Texas Agricultural Summit, which is a huge gathering of all interested parties throughout Texas. I'm very proud that a good friend of mine, Gene Nelson, was able to create the Texas Agricultural Summit a few years ago, and Mr. Stallman helped assure its success. We're very pleased to have Mr. Stallman present the views of the American Farm Bureau.

Our second speaker on the panel will be Mr. Dave Frederickson. He was elected president of the National Farmers Union in March 2002, an organization which had been, at that time, around for 100 years. They represent a quarter of a million farmers across the country, and he's the twelfth president of that organization. Prior to his election as national president, he served eleven years as president of the Minnesota Farmers Union. In both capacities, he used the understanding that he gained as a fourth generation family farmer and state legislator to represent rural communities and the people who live there. He grew up on a family farm in western Minnesota, the community of Murdoch, where they raised soybeans, corn, wheat, and hogs. He earned his bachelor's degree in education from St. Cloud State University and taught special education for eight years before returning to the farm in 1974. He and his wife have two daughters. From 1986 to 1992, he served in the Minnesota State Senate. During his six years as senator, he served as vice chairman of the tax and tax law committee and vice chairman of the agriculture and rural development committee. He also was chairperson of the rural development committee, a background very similar to that of Mr. Stallman. In addition he served on the education committee, the education funding division, and government operations committee. Because of his efforts, Minnesota passed legislation which was designed to promote new markets for agriculture products and opened up ethanol as the primary mechanism for rural development in Minnesota and throughout the plains states. He served as a member of the U.S. Agency for International Development Food Security Advisory Committee and was appointed by U.S. Secretary of Agriculture Dan Glickman to the U.S. Department of Agriculture's advisory committee on ag-biotechnology. He also has served on the executive committee of the International Federation of Agriculture Producers. And as you will hear from their discussions, they have a slightly different view of the government's role in terms of agricultural production. If they don't, we have the wrong people on the panel.

As a referee, we have Mr. Jon Huenemann. He is currently senior vice president of Fleishman-Hillard Government Relations, Inc. He leads the trade/investment/global markets practice group, providing strategic counsel and representation for clients on world trade issues. Prior to joining Fleishman Hillard in the year 2000, he had spent fifteen years in the executive office of the President. He was Assistant U.S. Trade Representative for North American Affairs and a member of the senior executive service. He was the chief strategist on Canada, Mexico, and the North American Free Trade Agreement and managed the trilateral work program. He was Deputy Assistant U.S. Trade Representative for Western Hemisphere Affairs. He led the negotiations in Chile's bid to enter the North American Free Trade Agreement (NAFTA) and managed trade relations with Mexico and the NAFTA. He was the senior negotiator on trade at the first summit of the Americas, and he spearheaded a number of negotiations in Latin America. He was the director for Brazil and the Southern Cone affairs for the U.S. Trade Representative's office and the key architect of the trade component of the Enterprise for the Americas Initiative.

So we have three of the most knowledgeable people in the nation to talk about how world trade and the regulations put forth by our country and others through the World Trade Organization impact producers. I'm going to let Bob Stallman kick us off.

**Bob Stallman:** Thanks for that kind introduction. I am honored to be on this panel and to participate in this Dean Rusk Center event.

During my opening comments, I would first like to lay out a few cold, hard observations about the state of global agricultural trade as we see it at the American Farm Bureau. While the title of this conference, *Agriculture and the WTO: Subsidies in the Cross Hairs*, is entirely accurate, I just want to make certain that everyone is clear on a couple of major points. While some progress has been made over the years to liberalize world agricultural trade, overall the global trade of agricultural goods remains awash in trade distorting subsidies. For the betterment of farmers and ranchers everywhere, not just here in the United States, those subsidies that stand in the way of freer and fairer global trade should not only be placed in the cross hairs, but the trigger should be pulled.

My main point of clarification to the title of this conference revolves around the word *subsidies*. I appreciate the pre-meeting information that recognizes that *subsidies* clearly includes market access issues. I caution those who interpret *subsidies* to mean only domestic supports in the United States. To be acceptable to America's farmers and ranchers, all types of trade-distorting subsidies must be in the scope. That includes market barriers like tariffs, non-tariff barriers and state trading enterprises, export subsidies, and trade distorting domestic supports. U.S. farmers will demand that this debate be comprehensive and inclusive.

Tariffs represent a very important subsidy for farmers in the countries that use them. Whether the subsidy of choice is direct payment or tariff, it is entirely a matter of perspective – and governmental wealth. Limits on market access through tariffs are the subsidy of choice for developing nations whose governments do not have the wealth necessary to fund outright domestic payment programs. A lack of wealth causes many poorer nations, who can afford to do little else, to protect their farmers by simply slapping up barriers to imports. Those barriers, whether tariffs or non-tariff barriers, have a direct and immediate distorting effect on trade. I would argue that they are far more deserving, from the trade distortion standpoint, to be in the cross hairs than any U.S. domestic support program.

Moreover, subsidization though market access barriers mainly hurts the citizens of those nations that have tariffs in place. Let me give you an example. The latest data available say India charges a forty percent import tariff on drinking water, and they could charge up to a full 150 percent bound tariff rate. If there were ever a nation that could use more clean water, India would be a strong candidate. Ironically, poorer nations, who have been the biggest foes of recent world trade proposals, probably have the most to gain from efforts to forge ahead.

It also must be stated that in order for trade reform to yield meaningful results for farmers and agri-food systems in less-developed nations, they must be free from repressive government and corruption in their government and marketing systems. They must have greater access to modern transportation, marketing infrastructures, production technology, and tools. Think of Nicaragua and Costa Rica – neighbors in Central America with very similar natural resources. One has a per capita income almost ten times that of the other. The difference? How the two countries govern themselves. It's that simple. Nations that can improve their agriculture through trade reform are nations that have taken care of all the other issues involving nationhood. Only then can they upgrade their infrastructures and update their farmers' access to modern tools and technology. There isn't much room for the ox and ox plow in the competitive, global framework of twenty-first century agriculture. For the sake of all the world's farmers, including those in less-developed nations, we must make sure that world trade talks provide ample room for fairer agricultural trade and opportunity for them to harness new tools and production technology.

Make no mistake about it, developing nations have a big chair at the table, but because they do, they need to be prepared to partake in the banquet of subsidy reform. That includes a main course of market access reform. Developing countries can't be allowed to use their status as a shield to protect them from tariff cuts and trade liberalization while demanding that U.S. agriculture disarms. With parties already in agreement, for the most part, to reform export subsidies, developing nations can no longer claim that others have not stepped forward. It is now their turn, and they must realize that their citizens stand to gain considerably if we all are able to find common ground.

Progress on market access is where we draw the line. Market access must be addressed in a substantial manner as spelled out by the agricultural framework agreement. If the world wants us to decrease our domestic supports, we must be met in kind with increased market access for all farm goods. Tariffs and other barriers to trade must also be targets in our cross hairs.

While some reports recently indicate that it may be difficult to make a lot of additional progress in 2005, we do have a framework agreement in place. The agricultural framework text adopted by the WTO General Council helps continue the process of negotiation. The stated commitments to substantial tariff reductions – including deeper cuts from higher tariffs – should lead to expanded market access for U.S. farmers and ranchers. We are encouraged that the framework calls for "substantial improvement in market access" applicable to all agricultural products. The domestic support provisions in the text continue the direction of reducing trade-distorting domestic supports in international markets. The export competition measures in the text will benefit American farmers and ranchers by eliminating export subsidies and bringing rules to bear on the market-distorting operations of state-trading enterprises. We also will work to preserve the ability to provide food aid to those in need. The U.S. Food for Peace program last year delivered food to 133 million people around the globe whose lives were threatened by malnutrition or even starvation due to war, natural disaster, or poverty. U.S. Senator Pat Roberts, one of the possible candidates for chairmanship of the Senate Ag Committee, said this: "With these programs, hungry people eat. Without them, they starve. It's that simple." We believe the framework comes down on the right side to preserve these food aid programs that are so vital to so many. It's hard for me as a farmer to fathom the idea that we actually had to justify to our competitors, some of whom are past recipients of food aid, our humanitarian efforts through programs such as Food for Peace. The framework text does not settle all of the issues but it provides the opportunity to continue to work toward agricultural trade liberalization. We remain confident that progress will be won and it may even be won in 2005.

Again, it all comes down to perspective. Clearly, some nations prefer an adversarial route rather than putting stock in the WTO negotiations process. I recently returned from a trip to South America. My clearest conclusion is that Brazil, unfortunately, views the United States as a subsidizer, rather than an ally, of reform. During my recent South America visit, I frequently made the point that Brazil, the Group of Twenty (G-20) developing nations it leads, and the United States have common interests in international negotiations. We need to make sure these other markets get opened up for all of us. Brazil and the United States should be cooperative partners in the process of opening markets. Only time will tell whether we indeed can work in that direction. Currently, Brazil is in a conflict position in regard to the United States, the European Union, and other nations. Frankly, our common cause is not well served when Brazil files cases like the one being appealed by USTR attacking our cotton programs and at the same time obstructing our good-faith efforts to win progress through the WTO negotiations.

I think that might help explain why some American farmers are frustrated with trade and the trade negotiating process. Just as we feel we have turned a corner with our ag policy, just as we are getting a sense that our farm program really is working, it comes under challenge and scrutiny. This summer, the Agriculture Department said it expects that we will export a record $61.5 billion worth of farm goods this fiscal year. What that means to a lot of us is that the rest of the world sees that success. Our programs are in the cross hairs because leaders make big targets. Perhaps the more recent reports of the United States running an agricultural trade deficit will get our detractors to back off, but I doubt it. The short-term shift in the U.S. balance of ag trade is due mostly to the lower value of our goods because of the lower value of the dollar. It's also related to the fact that our beef exports are still in recovery due to BSE (bovine spongiform encephalopathy)-related trade factors. And it has a lot to do with new trends in regard to the *any season* food preferences of American consumers. We are consuming far more fresh fruit and vegetables in the winter months now. Those products are not coming from Michigan. Moreover, the United States will continue to lead the world in ag trade performance and results. And along with that comes the tacit expectation that whoever leads in performance must also lead in policy. That fact puts the United States front and center in efforts to win reform in the Doha Round.

We already have said that domestic supports are on the table, but several key points of clarification need to be made in regard to our domestic supports. Contrary to what has been said, our current U.S. Farm Bill did not substantially increase the amount of income support paid to U.S. producers of corn, wheat, rice, oilseeds, and cotton from the previous four years. In fact, domestic support policies contained in this farm bill already have led to a direct budget savings of $15 billion from expected spending levels. Most government farm payments going into farmers' pockets actually have declined. In spite of that, we are prepared for a budget fight that waits just around the corner. I strongly disagree with any assertion that the United States has undercut progress to trade reform by retrenching in the area of domestic supports. I tend to believe that there is much more undercutting going on far beyond our borders. That is why the vast array of agricultural subsidies needs to continue to be placed in the appropriate colored boxes during the WTO talks. That gives a clear picture of what we are up against. I believe the green, amber, and blue boxes can be realigned and simplified, but it must be noted that not all trade schemes are created equal, and we need to have a way to measure that.

Which brings me back to the topic of Brazil's case against U.S. cotton. The WTO ruling on Brazil's dispute against the U.S. cotton program gives the advantage, for now, to Brazil, in its hope to prove that U.S. cotton programs either violate WTO rules or operate in a manner that causes *serious prejudice* to Brazil's trade interests. The WTO panel issued its *final* ruling in June. The panel found that several U.S. cotton programs caused serious prejudice to Brazil as a result of significant price suppression in the marketing years 1999-2002. The programs identified are the marketing loan program, the Step 2 program for exporters, the market loss assistance payment program, and the countercyclical payment program. In addition to casting doubt on those cotton programs, the

WTO panel ruling also found that U.S. export credit programs have an export subsidy element and that the U.S. has exceeded its export subsidy *base* for cotton. Even though the WTO panel ruling was called *final*, it's still far too early for either side to declare victory. The U.S. is mounting an aggressive appeal.

If the ruling is approved, there also could be implications for other major U.S. field crops. The WTO panel found that any U.S. commodity sector where export credits exceed the allowed export subsidy base is in violation of the WTO Agricultural Agreement. Areas to watch are those in which the United States has export subsidy bases from the Uruguay Round, including: live dairy cattle, wheat, barley and sorghum, rice, vegetable oils, butter, whole milk powder, non-fat dry milk, cheese, beef, pork, poultry meat, and eggs. This is an issue due to the fact that the United States did not establish a base for cotton or those other commodities based on export credits. At the time of the Uruguay Round Agreement the United States did not consider export credit programs to be export subsidies. This truly has pointed out the need for specific language in trade agreements. If there are any fuzzy areas, those areas will be exploited for gain by opportunistic nations looking for any edge they can grab. There must be certainty in trade rules, which is something our members of Congress thought they had when they so carefully crafted our current farm program to be WTO compliant. The WTO panel ruling further treaded into other U.S. commodities areas by ruling that production flexibility payments and direct payments were not exempt from WTO limits on trade-distorting subsidies. The panel contended that the United States should have formally placed those payments in the so-called Amber Box, a category for support programs that affect production decisions. This was based on the panel's opinion that those payments are not purely de-coupled from production because producers who receive them are prevented from growing fruits and vegetables on contract acres. Potential limits placed on export credit guarantees and the reclassification of direct payments and production flexibility contracts from the non-trade-distorting Green Box to the trade-distorting Amber Box could impact U.S. agriculture's ability to stay within its $19.1 billion Amber Box commitment.

We strongly support the position of our U.S. trade officials. The WTO panel erred in ruling that some domestic subsidies made under the 1996 and 2002 farm bills injured Brazilian cotton producers. The U.S. also does not consider export credit programs for cotton and other commodities to be prohibited export subsidies, since they were not subject to such negotiations in the Uruguay Round.

While Brazil is hoping to score a direct hit on U.S. farm programs, we remain confident that USTR's convincing arguments will remove us from the cross hairs of this attack. But, there are sure to be other snipers lurking. The U.S. cotton program is facing scrutiny also in the Doha Round of trade negotiations. Cotton is mentioned for discussions within the agricultural negotiations, based in part on a proposal from African cotton producing countries to end all production-related support for cotton growers.

Regardless of what happens, or the technical adjustments that might result, America's farmers and ranchers will continue to be a force at the world trade table. And, budget permitting, our government will continue to do what it needs to do in regard to smoothing out our occasional economic valleys and making sure our farmers have a fair opportunity to market their products abroad.

To our colleagues from Brazil, I simply say that there is not that much difference between what they want, the G-20 wants, and what we want. We should be working together toward a common goal. Too often, when it comes to trade, all sides allow the rhetoric of passionate negotiation to blind us to the reality that we are much more in agreement than in disagreement.

Until momentum builds for that spirit of cooperation, however, we will continue to draw a bead on the trade reform measures we believe our farmers and ranchers will need to compete in a freer and fairer global market. That includes:

- Pushing for developing countries to reform their tariff subsidies – if they want us to address any domestic supports.
- Preventing some food exporting nations from using *developing country* status to negotiate lesser WTO commitments for their agriculture. For example, countries like South Korea with high per capita incomes use *developing country* status to maintain high tariffs.
- Insisting that other developed countries reform high tariffs they have used to favor certain sectors of agriculture. They also have used the WTO negotiations

to help protect previously implemented domestic farm policy reforms. This undercuts the ability of these nations to engage in good faith negotiations to reach an agreement.

- Negotiating hard in areas like so-called *sensitive* products and making sure that other nations make a commitment to *substantial improvements* in market access. That could be a large obstacle to an agreement with some developed nations. Japan, with rice, and the European Union, with dairy and beef, are examples of some developed countries that impose high tariffs.
- In our view, this is all about increasing market access. The United States can compete with any nation when it comes to agriculture. American farmers must continue to trade and win trade reform: American agricultural productivity increases, on average, over two percent annually, with domestic consumption increasing less than one percent. The consequences of not expanding markets for U.S. agricultural products are lower prices for farmers and increased dependence on government programs. All countries, including the developing nations, agreed to *substantial reductions* in tariffs in the framework. There is a lot of hard work left to do though, as future negotiations will specify the size and nature of reductions. Farm Bureau is seeking the widest possible improvements in market access.

There are plenty of targets to shoot at when it comes to trade distorting subsidies that impact the global trade of agricultural goods. True knowledge lies in being able to determine how other nations subsidize and protect their agriculture sectors through trade distortion, and then winning reform through negotiations. At the same time, countries, if they wish, must be allowed to support their farm and ranch families through programs that do not carry huge distortions for agricultural trade. By removing their eyes from the cross hairs of their rifle scopes, all of the world's WTO negotiators will be better able to see the big picture. The world's farmers and ranchers, whether they work the soil in a developed or developing nation, all would benefit from trade reform that advances fairly through open and honest negotiation, rather than through legalistic maneuvering which tends only to put farmers around the world in each other's cross hairs.

**David Frederickson:** Thank you very much, Bob. I will just roll right into my prepared comments. First of all, I want to thank you, Bob Shulstad, for the invitation to be here. It's always good for a Yankee to be able to get down here and warm up a little bit anyway. And I'm so pleased to be able to meet the Commissioner. Your name, of course, is known far and wide. An old colleague and friend of yours, Jim Nichols, back several years ago has talked of you, so it's a great pleasure for me to be able to meet you, Commissioner. And, certainly, thank you for all of your good work over the many, many years. Senator, good to see you. I share a common bond, in that every now and then an innocent person is sent to serve in the state legislature. And I did that for a couple of terms and chose to step away. I had planned to just go back to the farm but got side-tracked over to the Farmers Union, and I'll be darned if I haven't been there ever since. So, good to see you and good luck with the work that you do. I mentioned to Kevin Kennedy earlier this morning that indeed I spent some time in the classroom before going back to the farm. I was the middle child, and when my father's health began to fail, I ended up back at home. But my experience was that of a teacher with behavior problem kids; and I found that, Senator, to be really helpful in the legislature.

It is truly a pleasure for me to be here to represent the National Farmers Union, to participate in this certainly important event, and to have an opportunity to discuss agriculture trade issues. The direction of trade is the area I would like to focus my comments on. As a general farm organization, we are very concerned about the overall direction of trade agreements and their impact on U.S. farmers and ranchers. Farmers, as my friend Bob has said, are extremely skeptical about trade. Our farmers are extremely skeptical about the benefits of globalization. We are told continually that ag prosperity based on free trade is just around the corner. Unfortunately, we never seem to be able to make that corner because of what we feel is a process and policy agenda that, frankly, fails to recognize the unique nature of production agriculture both here and abroad. This is in part due to the exaggeration, and at times the misrepresentation, by free trade advocates of the importance of trade to the economic well being of the United States farmers and is true for all trade agreements and proposals, multilateral, WTO, bilateral, and regional trade agreements the U.S. so aggressively has been pursuing.

The National Farmers Union fully recognizes the importance of agricultural trade and the need for a rules-based system to help ensure equity and fairness in our trade relationships with other countries. However, Trade Promotion Authority (TPA), or Fast Track, we believe, has reduced the role of the public and Congress to have an open role in defining and participating in the development of our trade policy agenda and in addressing specific concerns resulting from the negotiations. The trade issues under discussion, while certainly important, we feel fail to ensure that ag producers eventually will realize greater economic returns or stability or address major factors that determine our global competitiveness, including concerns related to exchange rates, labor, and environmental standards, and the impact of agricultural integration and concentration.

The strategy for free trade agreements appears to employ an incremental approach to specific sensitive commodities, which serves to divide farmers and their organizations based on their expectations of potential harm, rather than a desire to simultaneously improve individual commodity sectors and production agriculture as a whole. These negotiations and agreements offer very little in the way of real trade opportunities for farmers. For the most part, the free trade agreements have been with countries that have limited economic capacity to substantially increase their imports of U.S. farm commodities. While most represent real competition in both third-country and our domestic agricultural markets for a wide range of agricultural products, we are very concerned that the recently concluded WTO framework agreement may well set us up for an even greater sacrifice at the altar of free trade, by inviting even more imports while being committed by reductions in domestic safety net programs, before any benefits accrue to U.S. farmers.

Look at the recent framework agreement our U.S. trade negotiators agreed to in the WTO talks. Here's what we gave: twenty percent of our total amount of domestic supports. Here's what we got: a promise to keep talking. I don't know about you, but I thought when you sit down to negotiate and come to an agreement, then the goal is for both sides to get something in the agreement. We did not get an agreement to stop the manipulation of currency by our competitors. We did nothing to level the playing field on labor and environmental standards that gives our competitors a cost of production advantage. We got nothing to force countries with a developed agriculture sector from hiding behind special and differential treatment that gives them a trade advantage over developing countries, as Mr. Stallman has just indicated. What we did get was a chance to keep talking.

The rhetoric and the overstatements of the free trade advocates lead one to believe that without trade agreements, U.S. ag commodities would not move in world commerce. However, from 1985 to 1994, before implementation of NAFTA and the Uruguay Round Agreement on Agriculture, our agricultural exports, as valued by U.S. Customs, grew by nearly forty-one percent while imports rose thirty-five percent. Now from 1994 to 2003, after agricultural trade became subject to rules designed to improve market access, curtail export subsidies, and reduce domestic safety net programs, our exports increased only 34.4 percent, while imports rose more than eighty-six percent and our agricultural trade surplus declined precipitously. Agricultural trade growth in some commodity markets, such as Canada and Mexico, were more than offset by losses in others, and the improvement in commodity prices we saw a year ago is certainly now waning.

In my home community last week the price of a bushel of corn in western Minnesota was $1.50. Secretary Veneman and many others are quick to cite the percentage of farm sales that result from exports. They estimate that it will be about twenty-seven percent by the end of this year. What they fail to explain is that this is a comparison of apples to oranges. First, the value of imports that compete with and displace U.S. products in our domestic markets are not considered. Neither is the fact explained that the U.S. customs value they quote for agricultural export sales is determined on a free alongside-ship basis. Their data include the value of processing, transportation, and other factors to put agricultural products, not necessarily farm commodities, in an export position. We estimate the farm-gate value of U.S. agricultural exports amounts to about six percent of the total crop and livestock sales by producers when the values of the competitive imports and the nonfarm inputs are considered, not the twenty-seven percent that has been cited.

Turning to the Central American Free Trade Agreement (CAFTA), I would never underestimate the ability or persistence of some pro-trade free market advocates to achieve the ratification of a trade agreement regardless of its agricultural provisions. Production agriculture has been traded away before for other agricultural and nonagricultural interests, and I expect and worry that it will occur again in the future. However, because of the election year, the president did not submit it to Congress prior to the November election. We (the Farmers Union) oppose CAFTA for a variety of reasons: It sets a precedent for future negotiations, particularly with our other trade partners in the western hemisphere. The proponent's analysis of the agreement is based on, we believe, unrealistic and highly optimistic assumptions concerning the costs and benefits to the United States farm sector. The economic analysis of CAFTA is more of the same of over-promising and under-delivering that we see with each trade proposal. Maybe we should take a page from the construction industry and demand that performance clauses be included in these agreements. In addition, the analysis minimizes, almost to the extent of dismissal, the negative aspects of the agreement on the U.S. sugar industry. It also fails to identify the potential economic impact that U.S. imports of other competitive agricultural products such as fruits, vegetables, and ethanol will have on our nation's farmers and our nation's ranchers. The increased sugar quota provided in CAFTA can and will be filled, displacing U.S. domestic production and putting increased pressure on our domestic sugar program. The expanded market access for sugar within CAFTA will establish a precedent for other agreements, such as the Andean and Panama FTAs, and provide encouragement and justification to Mexico to seek increased market access in sugar to which it already believes it is entitled under NAFTA.

The bottom line is that National Farmers Union is concerned the current U.S. trade agenda is not serving the best interests of America's farmers and ranchers but is designed to continue what we believe is an unfair competitive race to the bottom in the commodity prices and will jeopardize the economic security of U.S. farmers and ranchers.

Thank you so much, Bob, and I look forward to the questions later.

**Jon Huenemann**: It is a pleasure to be here today to participate in this discussion on one of the central topics in global trade and investment – that being the agriculture negotiations ongoing within the WTO.

I want to first thank the University of Georgia and its School of Law and College of Agricultural and Environmental Sciences. I want to provide a special thanks to my friend and former colleague Ambassador Don Johnson who now heads the Dean Rusk Center here. I also want to thank my colleagues on this panel for sharing their perspectives on this topic. Both are significant voices in the policy debate. Other important voices will be speaking later today as well, so I hope you all have your listening and thinking caps on.

I come at this from a different vantage point. I am not speaking here today as a representative of any one trade association or sector, but as a practitioner in trade, investment, and global markets for twenty-five years. I negotiated trade and investment agreements for the United States for nearly twenty years, with the vast bulk of that time being spent at the Office of the U.S. Trade Representative (USTR). Over that period agriculture issues became more important fixtures in those negotiations and in my work. Since leaving government, my trade-related client work has been significantly in agriculture in a large cross-section of sectors. These combined experiences, and my fascination for global markets and the related policy issues is my backdrop.

Allow me to take a step back from the current blow by blow because I believe it provides essential context: There are lots of paradoxes in the world. For example, agriculture has been a mainstay of international commerce from the beginning. Yet, it was only with the Uruguay Round that concluded in the first half of the 1990s that the multilateral trading system began to grapple with this segment of commerce in a more meaningful way, but certainly a not yet sufficient way. On the other hand, industrial goods were the subject of rules and tariff cutting from the get go of the GATT following World War II, and not surprisingly trade has boomed in manufactures and other industrial goods.

When one looks back at the history of global trade as one meaningfully can given data constraints, it was in the nineteenth century where we first saw global economic integration and global commodity prices and not the end of the twentieth century. Commodity price convergence occurred significantly in the middle of the nineteenth century, for example, in wheat and other commodities. Subsequently, a few decades into the twentieth century we saw the disintegration of global trade, principally as a result of ill-advised actions by governments that raised barriers and segmented markets and pricing. This plunged the world further into an economic depression that was then followed by the Second World War. In fact, one can fashion a strong argument that in much of the nineteenth century we saw very serious global economic integration, certainly much more than was occurring in the first half of the twentieth century. Arguably, the integration was as meaningful as the second half of the twentieth century. Trade as a percentage of gross domestic activity was on par with what we often find now, and in some cases more. One example that may be somewhat indicative of agriculture and its unfulfilled promise: Argentina, a major significant agricultural exporter, saw its percentage of GDP that was accounted for by exports was 9.4 percent in 1870. In 1998 that figure had dropped to seven percent.

I am not suggesting that the depth of global economic integration we are seeing today is not more expansive, because I think it is, as technology literally makes the world so much smaller in tangible ways. Furthermore, the scope of global economic integration across capital, goods, services and labor combined with the dramatic advances in technology is unparalleled. My point is that global agricultural trade is by no means a new phenomenon and we saw indications of that with global commodity pricing in the middle of the nineteenth century. Furthermore, much of the nineteenth century might well have seen more openness in government policy towards commodity trade than we saw in much of the twentieth century. It was only in the latter part of the twentieth century that we saw the beginnings of a concerted effort by governments around the world to create a set of multilateral rules that obligated participating sovereign governments to reign in their penchant to dramatically limit, or distort, agricultural trade. Over the last century we often stymied the opportunities in global agricultural trade.

Looking at it from a U.S. perspective, the global marketplace now often is viewed as essential for the majority of U.S. agricultural production. At the same time, global trade is perceived politically as a mixed bag of threats and opportunities by U.S. agriculture. In this way, agriculture is no different than any other segment of the U.S. economy. Speaking as an economist, the degree to which segments of any broad sector in the U.S. thrive is a function of productivity. Certainly, broadly speaking U.S. agriculture has become many magnitudes more productive. When you consider that nearly fifty percent of our population in the late nineteenth century *worked the land* and now that figure is less than two percent, but the volumes and values of what is now produced are multiples larger, it becomes obvious what has been the central element of the success of agriculture – productivity.

But, consider this additional factor: World Bank research suggests that global merchandise trade liberalization looked at dynamically would mean a world income gain annually of over $500 billion, and approximately $390 billion of that would come from agriculture. Consider yet another contextual factor: Contrary to the impression that is often given that global poverty and the world divide between the rich and the poor has increased in the last two decades of the twentieth century, the opposite may, in fact, be true. In a recent book on globalization by Martin Wolf, the chief economics commentator at the *Financial Times*, he reviewed both World Bank and academic research. In spite the horrendous poverty and the governance problems that typically cause it in places like Africa in recent decades, the dramatic growth in China and to a lesser extent India in that same time period meant over 320 million people were lifted out of poverty on a global scale. This may have swamped the stagnation and regression that occurred elsewhere on balance. For example, China's per-capita income grew over 400 percent between 1980 and 2000, and that growth has not abated. Because of this dramatic growth and the increasing openness of its economy, China and its 1.4 billion people is an increasingly important locomotive for economic growth globally. China is the fastest growing U.S. export market among the world's larger economies, and in most cases the only rapidly growing export market. It is also historically unprecedented in that this *continental economy* is experiencing percentages of GDP that are the function of exports and imports that far exceed any other economy of this size, which bodes well for all of us and China. Economic openness, according to the World Bank and virtually all other credible centers of economic research, is an essential ingredient for economic success, and something for us all to keep in mind. Latin America, for example, seemingly is transitioning from an overwhelming singular fear of Chinese competition to an increasing realization in production agriculture that the opportunities are enormous as their commodity exports, including in agriculture, are being sucked into this vast emerging market. India, too, may increasingly present such opportunities if their market increasingly opens.

My reason for mentioning these points of context is simple: Global markets present enormous opportunities for producers and consumers around the world, but we are by no means realizing the extent of that potential in agriculture. This is largely due to government policies. The origins of U.S. and EU agricultural policies and programs date back to the immediate post-World War II period and the preoccupations of the time. Market intervention of various kinds and government support have continued to be pervasive – on balance, more pervasive in the EU overall. But, we are ignoring reality if we belittle the depth of government support, including trade distorting support, for agriculture in the U.S. We both go through bruising political battles as we *update* our farm programs. But, the EU is going through a significant reform of its CAP (Common Agricultural Policy) that is touching the most sensitive agricultural sectors. Intervention prices, production aid, export refunds, de-coupling, etc., are all part of this mix, and the trend with respect to support is down because budget demands, other policy priorities, and global competitiveness are unrelenting. But, one should take the view that what is being done is by no means enough when considering the unprecedented pervasive base of that support. In the U.S., the renewal of our farm policies and programs, which expire at the end of 2006, will become the subject of yet another politically charged discussion starting next year. To be candid, the U.S. has shown no inclination in recent years to diminish government support for agriculture. In fact, the opposite has occurred. Accordingly, the last farm bill in the U.S. in 2002 brought serious expressions of concern from trading partners around the world, particularly agricultural exporters. One can argue about the merit of those criticisms, but the fact is the 2002 farm bill was not well received around the world because it was viewed as a step deeper into market-distorting policy, and arguably it was. But, agriculture policy seems to prove over and over that all politics is local, even in a global marketplace that is becoming more interdependent.

My point is this: The obstacles to major reforms in agriculture in the major developed country agricultural producers are not to be underestimated. These programs have become a many decades old *way of life* for radical departures to be easily adopted. U.S., EU, and many trade negotiators from around the world at the end of the day have historically been there essentially to protect these programs. This is not news, but it deserves a reminder here.

Picking up on that theme, are we in a period where maybe an *atypical* charge to trade negotiators is really at work? Are we edging forward in the WTO in a way that could bring meaningful changes and new opportunities in agricultural trade of significance globally? There is a lot to consider before coming to any conclusions. First, the landscape of participants is more diverse than it ever has been. The U.S. and EU are major players, but by no means the only players that have to be at the table. This dynamic is unwieldy at times and much harder to manage towards consensus, while at the same time the breadth of interest in agriculture is a larger driving force than it has ever been at anytime in the post-World War II era. This should bode well for reform. Second, to varying degrees in each case, the major players – and, again, they have grown in number – are influenced by nonagricultural concerns and objectives (including political objectives outside the trade policy domain). This adds another dimension of complexity that agriculture will find either solace in, or concern over, depending upon the agriculture sector's objective in respective countries. Third, more so than has been the case in the past because of the growth in global interdependence and the fact that agriculture is truly on the agenda, there are competing interests in agriculture – some market opening focused and some the opposite – that present more difficult political choices for respective country negotiators. In other words, we are confronted more than in the past with the reality of determining between sets of competing demands. In short, since agriculture is such a prominent factor now, this determining between interests is a more important consideration. Fourth, with respect to the critical issues in agriculture of domestic support and export subsidies, one has to assume that budgetary pressures in both the EU and the U.S. are an additional factor that could help us get to less trade distorting government intervention. In the EU, there is little doubt that budgetary considerations are a critical factor in reforming the Common Agricultural Policy. The question is how much further can the EU go because what has been done is not enough. EU government support is still, overall, the most pervasive.

In the U.S., farm programs are not as large a percentage of the overall budget as is the case in the EU. But, recent history does not indicate that budgetary pressures, even with the massive fiscal deficit we are running, will drive dramatic changes in agriculture programs over the next two years. Very few politicians, particularly after the most recent elections where rural America's vote was viewed by many as strategically important, are going to want to slash farm programs, even with arguably politically viable alternatives. But, the farm bill renewal debate is without question coinciding with what is likely to be a significant degree of pressure to cut spending where possible.

Let me just throw this out: I think the key issue in Doha for agriculture is probably market access among the three pillars of access, domestic support, and export subsidies. I say that because if one looks at the three pillars, the export subsidies negotiation should now essentially be about negotiating the elimination instead of trying to negotiate whether we will get to that point. That is no small task, and nothing can be taken for granted, but I would rather be in the situation we are in now as opposed to the earlier situation. We seem to have crossed a hurdle of sorts with the framework agreement over the summer.

Quite frankly, for the U.S. this is not the issue it used to be, although we still have some tricky issues in this area. With regard to domestic support, greater equity and less trade distortion seemingly is an agreed objective within the WTO. We have a huge way to go here, but it seems we are going to move in that direction following the *framework* this summer. For the U.S., this has been a key objective. Again, however, there will be those in the U.S. who quietly will be hoping the EU and some others can hold the line, since they do not want to see domestic support scaled back. You will have a panel discussion on the cotton WTO dispute settlement case later today, so I will not venture into this topic. But, it is indicative of some of the vulnerabilities we have in our domestic programs under the current rules. We will have to see how this ultimately turns out, but it is a reminder, as is the EU WTO dispute settlement loss on sugar, that times have changed.

Now turning to market access, if we truly get a meaningful global market access package in agriculture it could prove to be the single most decisive element in a deal. But, everybody has to contribute, including both significant developing country agricultural exporters and importers and developed country exporters and importers. If the developing country agricultural exporters insist on sweeping subsidy and market access reforms in the U.S. and the EU without showing a willingness to genuinely open their markets, this deal will be very hard to conclude. Similarly, if the U.S. and the EU agree to reducing trade distorting domestic support and eliminate export subsidies but do not meaningfully address market access, this may not work either. In short, we need to get to a reasonably balanced market access result that includes all the major markets and players in agricultural trade. If we cannot get this, the odds that meaningful reform – meaning significantly less trade distorting support in domestic programs and the elimination of export subsidies – will happen in the U.S. in the upcoming farm bill renewal debate shrink. Furthermore, you will have much less chance for encouraging further trade friendly reforms in the EU. That is why I think the major developing country agricultural exporters need to pay close attention to the political environment in the U.S., where a solid market access package is a necessary salve for domestic support reforms, since the U.S. is not the major player in export subsidies. I am not counting out or underestimating the difficulties that will no doubt continue to arise with Japan, Korea, India, and a number of other significant markets that are characterized by sizeable barriers. Furthermore, nor am I underestimating how difficult it will be to get the EU moved far enough on everything in agriculture. Nor am I suggesting that the situation with the African cotton producers is by any stretch easy to resolve among other difficulties. The reality is that at a certain point the devil will become the details. It always does in trade negotiations, but I believe market access is a critical part of the mix of things that has to happen correctly.

Essential technical work is ongoing in Geneva. U.S. negotiators and their counterparts are again off to Geneva in the coming weeks. Next year is an important year for many reasons, as a WTO Ministerial meeting in Hong Kong near the end of the year will be a big determining factor as well as numerous meetings of officials that will precede that. At the same time, we in the U.S. will be discussing farm legislation this coming year and the year after and there will be a debate about renewing trade promotion authority, not to mention the ongoing FTA agenda.

I certainly hope that negotiators around the world will make the right choices so we see meaningful progress. Do not expect miracles, but real progress is viable. Thank you.

**Shulstad**: Would any of the three of you like to respond to comments of the others before we open this up for questions?

**Stallman**: I'd just as soon have questions, really.

[Note: The following question and the beginning of Mr. Frederickson's answer, enclosed in brackets, were omitted from the recording.]

**Unidentified Questioner**: [Do you find any benefits of trade? If so, what are they?]

**Frederickson**: [ . . . ] the benefits of trade. For example, trying to explain to farmers that we have a farm bill that is in existence, the politics of it, but that at the same time we have this commitment to reduce domestic support by twenty percent, is sometimes a real stretch out in the countryside. Recognizing — and I believe Jon pointed very clearly too, that the politics of farm policy at times are certainly different than the actual doing of trade policy. But I do see market access as an opportunity, and I don't want to leave you with the idea that the members of the National Farmers Union are opposed to trade. They would like and certainly support a trade agenda, but with everything on the table. I tried to point out earlier that the issue of currency fluctuation or currency manipulation has to be part of the discussion, we feel. Other issues that affect the price of commodities certainly have to be on the table, so market access, I agree.

**Shulstad**: A question was asked by Mr. Louie Perry, a cotton producer in Georgia, regarding how China in its manipulation of its currency rate influences its ability as a trading partner.

**Frederickson:** Well, I certainly believe it's a factor, and I believe that you probably will not stop that from occurring. Maybe my friend, Jon, over here would be more inclined to tackle that question. I assume that there ought to be some way of adjusting for China being able to peg its currency.

**Huenemann:** Well, exchange rates never really have been the subject of what typically are known as trade negotiations. They always have been the subject of discussion between finance ministries; and the current administration has shown a capacity to put an enormous amount of pressure on the government of China to move their currency practices, their market, and their economy more generally in a market-oriented direction. I suspect and I believe that the administration will continue to apply a significant amount of pressure on China to move its exchange rate in a market-oriented direction so that it is more responsive to market forces. At the same time, the Chinese government is engaged in a very difficult balancing act itself, trying to manage what in effect is a very complicated domestic market-oriented reform process of its own economy, which includes the financial sector. As a result of that, a lot of things have to be taken into account in the balance; because when we look at the relationship with China overall, on economic grounds, obviously agriculture is one important component of that. But there are many other important components, and that's what I was alluding to earlier. We can't think of agricultural negotiations as operating in a void. They are part of the bigger global trade negotiation agenda. And similarly, our relationships with countries like China and our agricultural trade is but one part of that relationship. So, although the administration has not shown a willingness to undertake, for example, the provocative action of accepting a Section 301 petition on currency manipulation that has been generated by a number of different manufacturing interests who have the same concerns as do some in agriculture with respect to currency manipulation, they are, I think, working very hard to try to move the Chinese as rapidly as possible in a more market-oriented policy approach to its currency. But I do not expect, in the immediate term certainly and even potentially over the longer term, for exchange rate issues to become the subject of WTO negotiations. I can't see that at this stage. I do, however, see a long-time history of governments working with each other to try to manage exchange rate issues, and I think the world has crossed a lexicon some decades ago, but particularly over the last fifteen years, where exchange rate issues increasingly are deemed around the world as something that is best managed by market forces. China, coming from where they've come over the last twenty years, is enormous change. But they're not there yet in every sense that we want them to become, and the exchange rate is one area where that is the case. But I expect that the pressure will continue and you will eventually see a more market-oriented exchange rate in China.

**Shulstad**: There is a question about intellectual property rights being considered a barrier in trade negotiations.

**Stallman:** We would consider it an extremely important issue in trade negotiations. Intellectual property rights is an issue that our farmers are concerned with because they pay the fees associated with that, and until just recently Brazilian farmers have not. So there is a question if, for technology for the future of agriculture for companies and investors to make the investment necessary to develop, in this case particularly new seed technologies, there has to be some way for those individuals to recover their costs. You can do that only if you protect the patents and the intellectual property rights. Farmers feel very strongly that it is a competitive disadvantage if we are held responsible for honoring those rights and paying for those rights and producers in other countries who compete directly against us in international markets are not. So we view it as a competitive issue; but from our perspective, that is something that needs to be discussed in trade negotiations, and other countries need to honor intellectual property rights.

**Clete Johnson**: During aftermath of the Farm Bill 2002, leading up to Cancún, there was an American negotiator who said that what we're going to have to do in the aftermath of the Farm Bill is convince the American farmer and the farm lobby that they can get a better deal from the market than they're presently getting from the government. I'd just like to ask all three of you, given the kind of unique local aspect of agriculture trade, is it possible for liberalization to give the American farmer a better deal from the market than it presently gets from subsidies from the government?

**Frederickson:** Maybe I can kick that off. I think you won't find a farmer in the United States who would prefer to get a check from the government as opposed to the marketplace. That's where they want to receive their income from. But the marketplace, unfortunately, has not worked in their favor historically. So I think it is a huge challenge for trade negotiators to make the case to American farmers and ranchers that this is the way to go. In other words, maybe there has to be some way to bridge that. There are no guarantees, unfortunately. I was in Europe shortly after the 2002 Farm Bill was penned, and I'll tell you what, it was tough to defend the $190 billion committed over roughly ten years. And the good news is, as Bob has indicated, that those dollars didn't go out this past year because of increased market price. So the difficulty, I guess, is that American agriculture, at least in some segments, is not willing or cannot afford to take the risk of getting from here to there.

**Stallman:** Dave and I, our respective organizations, and individuals have ongoing debates about the marketplace and what it has meant for American farmers. When you look at American agriculture in the aggregate, you look at our productive capability increasing efficiency, the market has worked. Now, has it worked in the way each individual farmer and producer would maybe like it to? No. But that is the process of creative destruction that has occurred in all industries and all economic endeavors throughout history. It is clear that agricultural trade is important to American agriculture. If you just look at the effects of the BSE case, fortunately we had a double effect where we shut off a product coming in from Canada, and shortly thereafter we were shut off in our export market itself and some supply and demand fundamentals sort of ensured that we didn't take as big a hit as we could've. But the bottom line is that it's clear what would happen to segments of American agriculture if we did not export, if we did not engage in trade. It's clear for what's going to happen for the future in terms of our continued success as an agricultural producing nation if we don't continue to open markets because of our increased productivity and lower domestic demand. I don't care how much I eat, and I try to do my share and everybody else. Fundamentally, we cannot consume everything that's produced in this country, and if we're going to continue to grow agriculture in this country and be successful, we need to find a home for that product outside the borders. And that's why I tried to talk about the distinction that we place in these negotiations and the importance of achieving market access.

We go through great lengths internally within our organization to analyze trade agreements as to their impact on all of American agriculture; so, in objective analysis, I think we have a good team. We have developed a market access model to be used in these negotiations to determine where our best interests would lie in gaining market access. At the end of the day, when the agreement is done, we're going to use that analysis to determine if we had enough additional economically-meaningful market access. I could have a long discussion about bound versus applied rates here, but the point is, if it's economically meaningful to our U.S. producers sufficient to offset the reduction in domestic supports, we will accept that. That's the premise that we work with in these negotiations with our U.S. negotiators.

**Huenemann:** Let me mention a couple of things: I think agriculture is unique, but I don't think it's unique in the sense that a lot of other people think it's unique. It's unique because, if you look at agriculture across the world, you have a huge degree of disparity between subsistence farming and agribusiness that, arguably, is as efficient as any segment of any sector of the global economy. So you've got subsistence farming in a number of places around the world all the way through the entire spectrum of efficiencies to among the most efficient producers in the world in agribusiness. If you look at companies like a Cargill, etc., there're a lot of companies that are cutting-edge players in that segment, and they're cutting edge when compared to any other sector in the global economy. Then on top of that, you look at the history of the situation in agriculture. And what you have had is a concerted effort, in much of the twentieth century, essentially to segment markets. In spite of the fact that people were increasingly reliant in the twentieth century on the ability to be able to sell goods overseas and buy goods from overseas, the trading system kind of only caught up to the fact that there was the need to create stronger market opening rules at the very end of the last century. So what you have is a circumstance where it is very difficult, when you're a farmer who has been in the farming business for forty or fifty years, to understand what the heck is happening, in a sense, because the market in a lot of ways has not been allowed to operate. It hasn't been allowed to operate here in the United

States in some respects; it hasn't been allowed to operate in the EU in a lot of respects; and it hasn't been allowed to operate on a global scale because of very significant market access barriers, particularly tariff barriers and quotas but also enormous amounts of domestic intervention in the marketplace. So it is difficult in that circumstance. Plus you have the complicated nature of any sector that is going to be the subject of true competition — and Bob alluded to this and so did Dave — in the sense that individual actors in the marketplace are constantly uncertain in some respects of what the future holds. That's the nature of competition in marketplaces. But if you look at the history of what has worked in any sector, competitive markets work. And we need to get to competitive markets in agriculture because we're not there yet. And then you will see farmers across this country, who clearly are among the most productive in the world, succeed in ways that they haven't succeeded before. But that does not mean that there are some farmers who are not going to succeed. That's the nature of the market, as Bob alluded to. I think it's one of these situations where we are at a key juncture strategically in global trade and agriculture if we can capture over the next few years an opportunity to truly open agricultural markets in a meaningful way and in a way that is politically viable, i.e., it's deemed fair on a global basis. And if we can do that, we'll start to see some of the gains. The World Bank research basically is saying that we could see $500 billion in annual income gain a year, $380 billion of that going to agriculture. Obviously not all of that is going to come here, and I think that's the other thing that has to be recognized. Trade is a two-way street, but, in the end, it tends to generate greater income gains and higher per capita incomes. China is a very good example of that when you see a 400 percent increase in per capita income in China, as China is becoming, in an unprecedented manner, the economy at its size that is becoming more and more dependent on exports and imports. So I think you have to think of the historical context; you have to talk about all these things. And Bob and Dave have been at the forefront in talking to the farming community. But it's a tough thing to work through with people because it's not always intuitive.

**Frederickson:** It's a tough sell to tell farm families that if you just hang on long enough, from a historical perspective things are going to be all right. From a historical perspective could mean from one century to the other, and we only have fifty, sixty, seventy years; and that's the difficulty that certainly we face.

**Stallman:** But the message to just hang on is the wrong message. The message is to adapt to change, figure out how to produce what the market wants, figure out how to do that in a way that gets you a profit. That's the message, and that's what our producers are going to have to learn if they're going to be successful for the future.

**Huenemann:** I think that's where, in the United States and in a number of other places around the world, the fact that government policy has been so engaged in the agricultural sector, it is very difficult for the farmer to get the right signals. And that clouds, oftentimes, the ability of individual farmers to make the right decision about markets. I think that's really fundamentally part of the issue here. That's why I think global trade negotiations are an enormous opportunity if they're handled correctly, because they can allow the kind of non-trade-distorting support that should continue to continue. But the kind of support that distorts the ability to be able to read the market correctly doesn't happen. For example, in the dairy sector government tends to exacerbate price jumps up and down over time. We exacerbate the supply problems that lead to declines in price; and that's just one example. But there are a lot of different examples like that.

**Shulstad**: Thank you very much.

## Agriculture and the WTO: Subsidies in the Cross Hairs

*Tuesday, November 16, 2004*

The Need for Reform - A View from Capitol Hill

Cal Dooley (D-CA), U.S. House of Representatives

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**C. Donald Johnson**: During my first year in Congress I was on the Committee on Science, Space, and Technology, and the chairman of that committee was George Brown from California. He'd been in the Congress for about thirty years and had a very strange sense of humor. We had a meeting where we were using some new technology at the time. It was a teleconference with some people all the way over in Japan. Of course, it's not new technology now. He went around the room and had everybody talk to the people in Japan, and when he got to me, he introduced me as "Mr. Johnson from a very peculiar state, the State of Georgia." "Well," I responded, "Georgia's only a peculiar state to someone from California." And I thought that at the time until I got to know Cal Dooley, and I found out that there are some people from California who are not that peculiar. Cal and I have a lot in common. He represents an agricultural district, and he and I found ourselves voting a lot alike much of the time. In fact, if I had voted a lot more like him, I might still be there. He has represented the Twentieth District of California for seven terms. He is retiring after this term of his own accord. He is a fourth generation San Joaquin Valley farmer, so he comes to this conference with quite a lot of expertise. He has a degree in Ag Economics from the University of California at Davis. He has a Master's in Management from Stanford, and he serves on the Agriculture and Resources Committees in Congress. And philosophically, like me, he's a raging moderate. He's one of the founders of the New Democrat Coalition, which is a group of centrist, pro-growth members who seek mainstream bipartisan solutions to our nation's problems. The *Congressional Quarterly* has named him one of the twenty-three influential power players in Congress, and that mainly is due to his ability to work effectively across party lines. He has done that quite successfully over the last fourteen years. He is widely recognized as one of the leading House Democrats in promoting an aggressive pro-trade agenda. For example, he was one of the leaders among the Democrats in trying to get trade promotion authority for the President recently, and he has worked efficiently to open markets up around the world in all legislative efforts. He has strong support across party lines. During the disputed 2000 presidential election, his name was floated as a potential appointee in both the Bush and the Gore administrations when it was unclear which side was going to win. He probably doesn't want me to read this, but there's a gossip sheet up in Washington called *The Nelson Report*. It just came out last week. We were trying to come up with new material for a good introduction of Cal and came up with this on the Internet. *The Nelson Report* writes about trade, and this is what it said. "The business community sources are buzzing, but every Republican's favorite free-trade Democrat, Representative Cal Dooley of California, is a good bet to succeed Bob Zoellick at USTR. Dooley would not appease House Democrats, who consider themselves international human rights victims at this point, but the press and public certainly could be expected to see the symbolism of President Bush's putting into practice his promise last week of a more sincerely bipartisan approach for his second term." Let's just wait and see how this turns out. I want to personally thank Cal for taking the time to come down here and be with us. When we originally set the time for this conference, we didn't know there was going to be a lame duck session, and now there is one. Most congressmen are up in Washington, and some of the staff who are down here are covering for the congressmen and senators, but Cal has taken time out to be down here with us. He flew down this morning and is headed right back up to make votes this afternoon. We really appreciate you being here. You always give insightful remarks, and we look forward to hearing from you.

**Cal Dooley**: I would like to focus my remarks on the economic challenges and opportunities facing U.S. agriculture. I am gravely concerned that some agricultural leaders in this country are drifting away from embracing the challenges and opportunities of globalization and are being seduced by the false allure of protectionism. Failure to view the inevitability of globalization as an opportunity will result in the stagnation and the demise of the U.S. agricultural industry.

The point I am stressing is that U.S. agriculture should not back away from the challenges of the international marketplace but should embrace those challenges. The formula for a new golden age in U.S. agriculture lies in the most rapid modernization of the economies of the developing world and the adoption of trade and domestic farm policies that are consistent with that objective.

U.S. agriculture has always been and will continue to be dependent on exports and foreign markets. We cannot lose sight of the fact that last year we exported almost sixty billion dollars in agricultural production, and with the decline in the value of the dollar we should see greater increases this year. One out of every three acres cultivated in the U.S. is devoted to production that will be exported. When we are exporting sixty-eight percent of our cotton, thirty-eight percent of our soybeans, seventy-five percent of California almonds, and ten percent of our beef production, U.S. agriculture's bottom line is largely dependent and certainly enhanced by exports. As we look to the future, exports hold the key to U.S. agriculture's financial prosperity.

An obvious argument for increased trade is the fact that only four percent of the world population lives inside our borders; and if you look around at the people who are sitting next to you, a fairly representative sample of Americans, it is obvious that we cannot eat anymore. We must gain access to international markets and to consumers who are underfed.

We must embrace a strategy that maximizes our export opportunities, and embracing the global marketplace will allow us to take advantage of those opportunities. In the next thirty years, world population is projected to grow from the current six billion to eight or nine billion; this growth will occur almost entirely in the developing world. It is in the developing world where we have the concentration of people who are underfed and the potential for increased consumption of agricultural products. Considering that currently over thirty cents of each additional dollar of income in the developing world goes to the purchase of food to improve diets, and as incomes rise a significant portion will go to food purchases, one begins to understand the potential for U.S. agriculture.

This potential is illustrated in the growth of average meat protein consumption occurring in developing countries. Currently, the developing world consumes an average of around twenty-eight grams of meat protein a day, compared to over eighty grams in the U.S. and the industrialized world. People in the developed world eat three to four times as much meat protein as people in the developing world. As incomes rise in the developing world, a significant portion of the increase will be spent on improved diets, which invariably means increased meat consumption.

Asia provides two excellent examples of this trend. Fifty years ago Japan's average per capita meat protein consumption was fifteen grams and today it is approaching sixty grams. And before the BSE (bovine spongiform encephalopathy) crisis they were a major importer of U.S. meat and will be in the future. China's meat consumption alone has risen almost ten percent annually over the last decade. Meat consumption worldwide has increased on average by five million tons a year recently, with two-thirds of the increase occurring in the developing world.

What does this growth mean for agriculture? If you assume a conservative three to one feed conversion ratio and an average three ton per acre yield of feed grains, producing five million tons of meat protein requires the equivalent of about five million additional acres of feed grain: five million additional acres just to provide for one year increase in meat consumption.

Where will the increased production come from? Australia has limitations of water and New Zealand has limitations in land. Argentina, Brazil, and the Ukraine have potential but face challenges with fiscal and political stability as well infrastructure needs that impede accessing markets. In addition, China and the greater Asia region have little additional arable land available. The U.S. is one of the few large countries in the world that is positioned to further increase agriculture production and capture a significant share of the growing markets in the developing world.

Considering U.S. agriculture's dependence on exports and the opportunities presented by the developing world, it is clear that the greatest gains for the U.S. is through the completion of an ambitious Doha Round.

One of the primary objectives of the Doha round is to facilitate the integration of the developing world into the global economy in which we clearly have a vested interest. It is important for us to be honest and recognize what has been the primary impediment to progress in the Doha round. I argue that it is the developing countries' growing frustration with the domestic farm and trade policies of the U.S., the EU, and a handful of other industrialized countries.

When one looks at how dependent the developing world is on agriculture, it is no wonder these countries have been so united and aggressive in multilateral trade issues. Agriculture products account for almost thirty percent of exports of the developing and least-developed countries, and seventy percent of the population of the least-developed countries is dependent on agriculture. But it is hard for them to compete against the U.S. and the EU who are allowed to subsidize their farmers in excess of eighty billion a year. In recent years, farm subsidies have accounted for forty percent of the total value of production in the EU and twenty-five percent in the U.S. When the EU and the U.S. are subsidizing their farmers to the tune of $18,000 a year it is little wonder that farmers in the developing world who are living on $2000 a year cannot compete. While nearly one billion people struggle to live on a dollar a day, EU cows net an average of two dollars a day in government subsidies. The developed world's $300 billion in farm subsidies overwhelms the $50 billion provided in development assistance to poor countries.

With that in mind, it is no surprise that developing countries demand reforms of our farm programs or challenge our cotton program or the EU's sugar program in the WTO. From 1991 through 2003 the average market price for cotton was $.57/lb; during that same period, average farm subsidy payments amounted to $.21/lb. The subsidies ranged from a low of $.02/lb in 1995 when market prices were $.75/lb and a high of $.43/lb in 2001 when prices were $.30/lb. You can imagine the envy of a farmer in Burkina Faso who received $.30/lb in 2001 while his U.S. competitor was receiving $.73/lb. You can imagine the difficulty of that

African cotton farmer trying to understand how in 2003, when prices were more than double the prices of 2001, the U.S. farmer only realized a $.01/lb difference in revenue per pound.

In response, U.S. farmers have always said that all they want is a level playing field. U.S. farmers have rightly contended that EU and Japanese farm programs have given their farmers an unfair advantage. The EU's reliance on export subsidies, which are the most market distorting subsidies, is harming U.S. agricultural interests. The U.S. clearly has the moral high ground on allowed tariffs, as our agriculture tariffs average twelve percent, versus the EU's twenty-nine percent and Japan's fifty-one percent. Most disturbing is the sixty-two percent average world tariff on agricultural goods. However, there must be recognition that high tariffs are a response by developing countries that do not have the financial ability to provide domestic subsidies to enhance their agricultural sector and are unable to compete on this unbalanced trading field.

We now are entering a critical time where U.S. farmers of program crops face a fundamental decision. Brazil's successful WTO challenge of the U.S. cotton program and the EU's sugar program have established a road map for additional challenges to the industrialized world's farm programs. The question now is will U.S. farmers support compliance with final decisions or will they attempt to mobilize political support to try and maintain the status quo.

Maintaining the status quo is not an option. While the U.S. has appealed the cotton decision, a final decision is expected the first part of next year when most WTO observers believe that the U.S. will lose on most counts. If that is the case, the U.S. would be required to eliminate the use of the Step 2 program by July of next year. It is questionable to what extent the export credit guarantee program would have to be modified. Even the direct payments were found to be in the amber box or trade distorting because of restrictions on the planting of fruits and vegetables on base acres.

More broadly, this decision has resulted in some calling into question the U.S.'s role in the WTO. Again, U.S. agriculture faces a fundamental choice. Will farmers of program crops support a DOHA agreement that is consistent with the

July framework that called for the elimination of export subsidies, significant reductions in domestic subsidies, limits on the use of export credit guarantees in return for reductions in tariffs that will provide for greater market access?

I am an advocate of the U.S. engaging in a good faith effort to comply with the WTO final decision on cotton, and our reforms of our cotton program should be consistent with the proposals embodied in the July framework.

There needs to be recognition that unless the U.S. provides strong leadership in the DOHA round we will not meet the schedule requiring significant progress in negotiations prior to the December 2005 meeting of trade ministers in Hong Kong. Failure to meet that deadline probably results in a DOHA light agreement that provides minimal progress in trade liberalization. The reason for the minimal progress is the recognition that the President will lose TPA (Trade Promotion Authority) in 2007 and trade ministers will try to achieve an agreement that can easily pass Congress prior to that expiration. If significant progress has not been achieved by the end of 2005 the scope of the DOHA agreement will be significantly reduced, to the detriment of the industrialized and the developing world.

The July framework would require the U.S. and the EU to significantly reduce their domestic subsidies. It is not clear what significant means, but the U.S. and the EU have agreed to a twenty percent reduction in allowable subsidies in the first year of an agreement. This is a minor sacrifice since the U.S. and the EU already are spending less than twenty percent of what they are allowed to spend and therefore would not have to reduce subsidies.

In terms of what *significant* reductions would mean over the course of the agreement, Australia has stated that it would mean at minimum a fifty percent reduction in subsidies. This would require significant modification of U.S. farm programs. There will be attempts to shift subsidies into green box programs which allegedly are not market distorting. However some countries will argue that any payments to farmers create market distortions as they maintain production at higher levels than would have occurred in the absence of the green box payments. One could expect significant controversy on defining green box payments and some attempts even to limit them, which would be strongly opposed by the EU.

One of the real questions is what role Brazil will play in the WTO negotiations if the U.S. and the EU are willing to eliminate export subsidies, restrict export credit guarantees, and significantly reduce domestic subsidies. Will Brazil step up and be a forceful advocate of increasing market access through the reduction of tariffs and will Brazil use its influence with developing nations to accept significant reductions in tariffs?

The case for reducing tariffs is important not only to the U.S. but to developing countries as well. Consider that forty percent of south-to-south trade is composed of developing countries' exports and seventy percent of the duties paid by developing countries are paid to other developing countries. Reducing tariffs among developing countries could facilitate the development of regional markets, accelerate economic development, and lift millions out of poverty.

A successful DOHA round will be contingent on increased market access and provisions for special and differential treatment to some developing countries. But not all developing countries are created equal. The WTO currently has only two categories: the least-developed countries (LDCs), as defined by the World Bank, and other developing countries that are self declared. Few countries will declare voluntarily they are no longer developing if it means they will no longer be eligible for preferential treatment. But it is clear that there are significant differences between a developing country like Brazil, whose major export is jet aircraft, and Nicaragua, who is exporting coffee and textiles and has a per capita gross domestic product of $2200.

The International Food and Agricultural Trade Policy Council has proposed that developing countries be divided into two groups, those with per capita incomes below $3035 and those below $9385, which would be consistent with World Bank definitions. The segmentation of developing countries will allow different commitments on the reduction of tariffs and will be an essential component to a successful conclusion to the DOHA round.

Complicating progress in the DOHA round of the WTO will be the farm bill debate that will occur during the same time that negotiations move forward. The farm bill will be considered in a period of growing budget deficits that will put pressure on reduced spending for farm programs. Program crops which have dictated the outcome of past farm bills are in a different situation and are at greater risk of being isolated. The Brazil cotton decision found that direct payments did not qualify as green box because of restrictions on planting fruits and vegetables. If commodity crops try to eliminate this exclusion, they risk driving the specialty crop industry, which comprises over fifty percent of U.S. agricultural receipts, into a political coalition with rural development, conservation, biofuels, and research interest groups advocating a significant reallocation of federal spending for our farm programs.

I have spent a lot of time talking about helping the developing world. I wish I could say it is motivated solely by altruism, but it is not. I see the developing world as the largest potential market for U.S. farmers. The quicker poor countries develop, the sooner their citizens will have more money in their pockets to purchase U.S. farm products. Those in agriculture who advance protectionist policies delay economic progress worldwide. The precedent that will be established by the success of those unwilling to compete will only further embolden the EU to continue the $60 billion a year Common Agricultural Policy (CAP) and their export subsidies. It will embolden Japan to continue their 500 percent tariff on rice imports; it will only empower Brazil and developing countries, the gang of twenty-one, from agreeing to provide greater market access. All of those outcomes are contrary to the interests of the United States and clearly work against the interest of hardworking American farmers who know they can compete and win in the international marketplace.

We have an opportunity to provide for a more prosperous future for U.S. agriculture by embracing free markets and by lending a helping hand to the poor countries of today who will be the consumers and purchasers of our products in the future. Thank you.

**D. Johnson**: You now see why we invited Congressman Cal Dooley. Very insightful comments. I think we have time for a number of questions, so if we have some questions: Jon, stand and identify yourself. We are trying to make sure we get all the questions.

**Jon Huenemann**: I'm curious to hear your views on the intersection between the multilateral Doha agenda and what is happening or not happening in agriculture in the context of the bilateral and regional free trade agreement (FTA) agenda. And as you know, many in agriculture have been resistant to the notion of moving, for example, at all on domestic support issues in the context of these regional and bilateral agreements, but I'm kind of curious to hear your thoughts on that issue.

**Dooley**: There's been a lot of discussion on whether or not the interest of trade liberalization is being advanced by bilateral negotiations, and is that detracting from our ability to make progress in the multilateral rounds of the WTO. I'm one who basically says that, if you really want to be pragmatic about this, if you are concerned about not making progress in the multilateral, you need to continue to provide U.S. leadership in the bilateral negotiations. A lot of the commodity groups, in particular sugar we'd use as an example, have raised objections about having any increase in the amounts of sugar that could be exported to the United States as part of the bilateral negotiations and have raised serious objections to that. My concern is that if you don't allow progress even on the bilaterals, the significant portion of agriculture today does not get any subsidies, and that's a lot of it. You can go to any supermarket in the United States, go down the produce aisle, and there's not one product there that gets subsidized. You can go down the meat aisle, and there's not one product in the meat counter that gets any subsidies to speak of. You can go to the canned fruits and vegetables aisle; nothing gets subsidized there. All these commodities are competing internationally without subsidies today, and all those commodities have a vested interest in increased market access, which is being achieved in large part through the bilateral negotiations. I think it's a disservice to U.S. agriculture to ask those commodities which currently are operating without subsidies to say no, we're not going to see any progress even in bilaterals which expand market access until we see progress in the WTO. And I think there's a growing resentment against some of the program crops that are objecting to progress in the bilaterals because of their concerns with what I would say is very minor market opening, in particular with sugar.

**Robert N. Shulstad**: Can you elaborate in terms of the specific types of regulations that may come out of this coalition between the rule makers, conservation program supporters, and the producers and commodity groups that have benefited from traditional farm support programs?

**Dooley**: Well, in the last farm bill, there was an amendment put on the floor that would have shifted dollars from the program crops into conservation programs primarily. It surprised a lot of people when it got on a floor vote, I think it was almost 180 votes; it was a pretty significant measure. I think what is being discussed with a lot of factions out there that are part of this group is, could you put together a coalition that would see shifting some of the program crop subsidies into rural development that would help our rural communities? Could you shift some of those dollars into conservation programs, wetland reserve, or whatever— the whole range of programs there? Both of those approaches would be shifting dollars that apparently would be characterized in the WTO vernacular as amber, and thus would be going into green box. Also putting in greater research dollars would be green box dollars; and then trying to find ways we perhaps could embrace an element of our energy independence through support on the bio fuels; also trying to appeal to a more urban legislator or constituency that has a greater interest in sensitivity to human rights conditions in the developing world by then bringing in the NGO (non-governmental organizations) community that would then be a part of this. And the wild card in this is the specialty crops and vegetables and the tree fruit. I actually had a bill to take one percent of the money from the program crops subsidies and shift it into the specialty crops, which currently get nothing; and the program crops rose up in unanimous opposition to that proposal. They did the same thing when we were asking for even less of that for research during the last farm bill. There are a lot of people who are growing impatient with the unwillingness of the program commodities to provide some level of support. So you could have a coalition developed that would include agriculture, the environmental community, people interested in international human rights, and also the bio fuels. That would be a very powerful coalition that fundamentally could change how we're providing our programs or our federal support for program dollars. And I think that's something the program crops have to be serious about.

There was a question earlier that Clete asked about, can farmers expect to receive as much from the marketplace as they can from the government. Jon, I think, did a good job answering that question. But the bottom line is that we have a significant portion of agriculture today that is already competing and getting their returns in the marketplace without subsidies. All the tree fruit, all the vegetables, most of the livestock industry are competing internationally today without subsidies. So many of the subsidies that we are providing in this country today are being capitalized into land values, which are increasing the cost of production, which are in some ways contributing to barriers of entries of young farmers. A lot of our subsidy dollars actually are being allocated in ways that aren't necessarily benefiting the producer in the long run. And the challenge I think we have to find is how we make a transition out of these programs, which I think are counterproductive and inhibit our productivity advances; how can we make that transition out that also would be consistent with what we should be trying to provide or achieve in the WTO, all in the context of this next farm bill. And that's a lot of work to be done there. But the failure of the United States to provide the leadership and aggressive leadership in the Doha round dooms it to failure. And the failure of Brazil – if Brazil doesn't step up and provide the leadership on the market access, Doha fails, too. The U.S. and Brazil, I think, in many ways are most important, with the EU and what the EU has done, and Minister Fischler, in terms of the cap reforms. They have demonstrated a good faith effort that they are moving in the right direction and we ought to respond in kind.

**Jason Calder**: I was very please to hear your statement that we need to start looking at the developing world differently. We work primarily with the poorest developing countries in places like Africa, Mali, Burkina Faso, as you mentioned. It is a totally different situation than Brazil or China. Could you expand a little bit on your thinking on where special and differential treatment could go within the context of in this round of negotiations?

**Dooley**: Well, I don't have the level of expertise here I would like. I think that what we have to be concerned with, though, is that the special and differential treatment that we allow the least developing countries to enjoy, that that has to be carefully structured, too. Because if you give preferential treatment, such as the EU did to some extent in their sugar program and their bananas, you lock in markets to some extent, which also harms those people in other least developing countries that are on the outside. So I would hope that we would be able to move forward with special and differential treatment that did not allow for any preferential treatment, and that we also would require those least-developed countries in both categories to embrace a level of reduction in their market access, but perhaps find a way for them to have some safeguard procedures that in time could kick in to provide temporary assistance. But I think what we also have to be concerned with is that even in the least-developed countries, when you put in your market tariffs, or your higher tariffs on market access, and your imports, most of the subsistent farmers in the least-developed countries are net food purchasers. And if you're not careful, you're actually taxing those poor farmers that you think that you're helping. So this is a very difficult challenge. And it gets even beyond that on the tariffs. It's also that a lot of these countries generate a significant portion of revenues from taxes on tariffs. So there has to be some focus in terms of an international development strategy that can help facilitate a transition to another form of revenue generation that's at all possible. There's no silver bullet here, but there are a lot of smart people out there doing a lot of great work in this area that we have to give some attention. What gets a little bit frustrating is that the 300 billion or so that the U.S., the EU, and the developing world are spending on subsidies creates such market distortion that it is harming the economies of the least-developed countries. And sometimes we stand up in the U.S. and the EU and we pat ourselves on the back because we're providing $50 billion in developing assistance to the least-developed countries in the developing world. That pales in comparison to the distortions in the marketplace that are reducing the revenues to those least-developed countries because of the 300 billion that we're providing to our subsidies in the U.S. and the other industrialized countries.

**D. Johnson**: Cal, let me ask a question, a tough political question. When you look at the slowness in compliance with the WTO decision on the Byrd Amendment, the slowness to comply with the WTO decision on Foreign Sales Corporations, the sort of growing anti-globalization, the growing anti-WTO mood, and when you look at the politics of anti-trade in both political parties in the last election, is there the political will to do the types of reform you're talking about or even the political will to comply with the Cotton Case? Tell us just a little bit about the mood and what is the likelihood that we'll see some reforms that you're talking about.

**Dooley**: I'm an eternal optimist, and by that, some of you would hope that I probably am not correct in my assessment that it's inevitable that eventually we're going to have to make these changes. If the EU continues down its path to significantly modify its common agricultural program and reduce its market-distorting subsidies, one of the fundamental tenets U.S. farmers have used that all they want is level playing fields is eliminated. The only countries we don't have a level playing field with is the EU, Japan, and a few other counties. Australia, New Zealand, and the developing world don't have a level playing field with us. My point is that the coalition I've talked about developing, which there are people already working on trying to bring together, can develop the political clout and the majority that could result in some fundamental changes. This farm bill is going to be considered in a significantly different political environment than the farm bill of the last four years, or four years ago.

**D. Johnson**: It has been a really thought-provoking speech. We really appreciate your coming down, Cal. Thanks so much. We'll be reconvening at 1:30, so we'll see you all back here then.

## Agriculture and the WTO: Subsidies in the Cross Hairs

*Tuesday, November 16, 2004*

Agriculture and the Doha Round: Prospects for Success

Moderator: *C. Donald Johnson*, Dean Rusk Center

*James Grueff*, Assistant Deputy Administrator for International Trade Policy, Foreign Agricultural Service, USDA

*Tassos Haniotis*, Deputy Head of Cabinet, Commissioner for Agriculture, European Union

*Evandro S. Didonet*, Minister Counselor, Brazilian Embassy

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**C. Donald Johnson**: We've heard from the private sector and had some insightful comments from a perspective on the Hill by Congressman Dooley. We now have a panel from the government side. I was reminded in listening to the private sector this morning of my time in the government as chief textile negotiator and all the conflicts that you hear in listening to Bob Stallman and Dave Frederickson. The domestic constituency is not always on the same side of things. Sometimes I would come back from a trade negotiation and not everybody was all that happy with what I had produced. Quite often I would please one side and the other side wasn't that happy, so I finally decided that my goal should be to make everybody moderately unhappy. So I think that's maybe what your goal should be, Jim. I suspect that's the same also in Brazil and I know it is in the EU. There are quite a few different conflicting interests from the north to the south, and elsewhere. Today we're going to hear from the government panel, both on the U.S. side and from the EU, as well as from Brazil; and I hope that we'll hear from our friend from Brazil a perspective from the Group of Twenty as well.

Our first speaker is James Grueff. Jim has been the assistant deputy administrator for international trade policy at the Foreign Agricultural Service

(FAS) at the U.S. Department of Agriculture (USDA) since September 1998. His primary responsibilities include managing the participation of the FAS in the WTO Doha round negotiations on agriculture, handling various trade issues with the European Union, and working on the sugar import policy. Previous to his current position, he was head of the FAS office in Bohn, Germany, from 1994 to 1998, and he has held a number of other positions including being involved significantly in the WTO Uruguay Round negotiation as director of the FAS Multilateral Trade Policy Affairs Division and as the lead U.S. negotiator for the WTO Sanitary and Phytosanitary Agreement.

Secondly we will hear from Tassos Haniotis, who was a member of the cabinet of Dr. Franz Fischler, the European Commissioner for Agriculture, Development, and Fisheries during the 2000-2004 period. Tassos was the Deputy Head of the Fischler cabinet since October 2003. He has had as his main responsibilities the field of external relations, trade, and enlargement, with the main focus of his activities during this period the agricultural chapter of the Doha WTO round and the EU-MERCOSUR (Mercado Commun del Sur – Southern Cone Common Market) negotiations. He joined the European Commission Director General for Agriculture (DG Agriculture) in 1989 and was responsible for the developing medium-term forecast and quantitative analysis for the EU agriculture within the DG Agriculture from 1990 to 1996. He served as agricultural counselor for the European Commission delegation in the United States from 1996 to 2000. During that period is when I met Tassos. He is well known to the University of Georgia campus since he is a very well educated gentleman, having received his Ph.D. here on this campus. We're going to be asking him to speak with Coach Richt to tell us how Greece won the World Cup. Hopefully he can tell Coach Richt how to beat Auburn and Tennessee next year.

We also have with us Evandro S. Didonet, who has served as Minister Counselor for Economic Affairs and Trade Policy for the embassy of Brazil in Washington since August 2003. After completing a degree in international relations in Brasilia, Mr. Didonet entered the Brazilian Foreign Service in 1979. His previous mission postings abroad include Vienna from 1984 to 1986, Beijing from 1986 to 1989, Bonn from 1989 to 1992, and Rome from 1995 to 1998. He was the Deputy Chief of Mission in Ottawa from 2001 to 2003, and his recent assignments in the home country have been in the Ministry of External Relations in Brasilia. Help me welcome the panel, and I'll call on Jim Grueff to begin the discussion.

**James Grueff**: Thank you, Don, very much for that introduction. It's good to be here with you all this afternoon. In fact, it's really good to be out of Washington for a few days. The turmoil there, the second guessing and the recriminations, and who made the wrong decisions and how are we going to recover from them, and the future is so bleak – I'm talking of course about our pro football team, the Washington Redskins and the season that we're having and how we're trying to deal with it.

I've been involved in every step of the Doha round negotiations on agriculture, from before the beginning – actually, from before Doha to the present. One thing I want to do is congratulate you organizers for a very timely and very important subject for your program today. Also, congratulations on recognizing the new reality at the WTO. As you look at the three of us here, we are representing the three leaders of the process now in the agriculture negotiations at the Doha round, and it wasn't that way as of just a little more than a year ago. You would have had a somewhat different lineup up here. What this shows is that people who have organized this understand what has happened at the WTO and the new reality, so to speak, of the balance of power. I do have a comment on the title that you've chosen, *Subsidies in the Cross Hairs*; and I'll make a mention of that in just a minute.

We're talking a lot today about the framework agreement from August 1 of this year, the framework Agreement on Agriculture at the Doha round, and I would say that this is the most important agricultural trade agreement in the last decade. If you look at everything that we have done, the EU has done, Brazil has done, and all of us have done with each other and otherwise, there has been no more important agreement since the conclusion of the Uruguay Round multilateral Agreement on Agriculture. Why is it important? It's important first of all that it happened. That's the first thing. It happened, and it's not window dressing; important decisions were made; it's substantive; it's substantial. It's important that it happened because if it hadn't happened, then I think that the World Trade

Organization as an institution might have been in real jeopardy. For those of you who try to stay attuned to the trade debate around the world, you'll know that after Cancún, and with Seattle in the background after Cancun, there started to be real questions about the viability of the WTO as an organization, and whether it was really something that needed to be kept in place, and whether it was performing any real function. We had set ourselves a deadline to come up with the framework, not just in agriculture but in the other areas. If we had not succeeded, I think that might have been a devastating blow to the credibility of the organization.

And let me mention, it wasn't just Seattle and Cancún. Those were the high profile, so-called ministerial conferences. The one equally or more important was one that was a little lower profile. In agriculture we had set ourselves a deadline of March 2003 for completing what is known as modalities, in other words, the formulas, the numbers for reducing tariffs and addressing subsidies and reducing subsidies. We knew that was the deadline and we just blew right past it as if it never existed. Chairman Harbinson at the time did put out a paper; that was his job. He did it, but it was not a negotiated paper. It never got any traction; it never had any credibility. So for those following the process, they realized that we had completely missed the marker that we had set for ourselves. That's important enough, but beyond that, what the framework agreement of this year has done is it has given us a solid blueprint for now completing the Doha round negotiations on agriculture. Some very specific decisions have been made. We have some very specific guidance for moving ahead in this negotiation, and we badly needed that because the process was in real difficulty up until we achieved the framework.

Now my comment about the title, *Subsidies in the Cross Hairs*: This is a theme that you're going to hear throughout the day. Bob Stallman mentioned it; Congressman Dooley alluded to it. The World Trade Organization is about trade. Its purpose is to facilitate trade among the members of the organization. That mostly means border measures (those are the most important policies); tariffs that are used (tariffs are too high); quotas that are used (quotas need to be expanded); and other procedures that are used that directly impact on imports. This is what we think is at the heart of this, so undoubtedly subsidies are a very important part of this. Subsidies have to be addressed, and they will be addressed. Just to make sure that we don't overlook the fact that this is about facilitating trade; it's about what happens at the border, policies that countries implement at the border, especially those that have the effect of impairing trade from other WTO member countries. So our U.S. government perspective on the framework from August 1 is that there are some things in it that we find critically important that we very much like. Let me start with market access. As I mentioned, it's very important to us.

We talk about three pillars: market access, domestic support, export competition. Market access, of the three in the framework agreement, probably has the least specificity but it has some very important principles. It says (Congressman Dooley mentioned this) higher tariffs are to be cut by more than lower tariffs. This is very important for U.S. agriculture. Our average tariff for agricultural imports is twelve percent. For all WTO members, the average is sixty-two percent. So the fact that those with higher tariffs will have to cut by more, and therefore create some leveling of the playing field, so to speak, is very important for us for U.S. agriculture. The agreement talks about sensitive products that can be dealt with somewhat differently; but importantly, in the market access part, it says that even for sensitive products there must be tariff reductions, and where there are quotas those quotas must be expanded. So no products are exempt here. Even ones that countries consider to be sensitive must be dealt with in a market opening fashion. On more my level in terms of the negotiators, there will be some real nitty gritty guidance in terms of what the formula will look like that we come up with at the end. For example, it says it must have bands. Tariffs will be classified by category: highest tariffs in the highest category, and those will get the deepest cuts. Then as you move down through the different bands, the cuts will be progressively lower. And that gives you a result that's known as harmonization, or it moves you towards a leveling of the playing field, which we find, with our low tariff structure in the United States, is very much to our advantage. So that's some of what we have in market access from the framework agreement.

In export competition, what the framework agreement means is that we have achieved a goal in U.S. agricultural trade policy that we have been pursuing for at least two decades. And that's the elimination of agricultural export subsidies. I think Tassos and his political level are to be congratulated for having the political courage to finally take that step because this was mostly about European Union agricultural export subsidies. When they really needed to do it, they stepped forward and made that decision, and now we have a very clear commitment from the European Union, and all the others of course, that we will be completely phasing out the use of agricultural export subsidies. By the end of the implementation of this agreement, they will be completely eliminated. Also in the export competition pillar, we have some language on what we call export state trading enterprises. This would be the Canadian Wheat Board, the Australian Wheat Board, and others. And what the language means is that for the first time, we'll have rules that deal specifically with agricultural state trading enterprises on the export side. We expect, based on what we have in the framework, that for the first time there will be tough new disciplines on the Canadian Wheat Board, on the Australian Wheat Board, and on other similar entities, which have caused U.S. exporters a good deal of difficulty in third country markets over the years.

I'll move to the third pillar in terms of how we look at this domestic support. Again, we have some guidance on what the formula should look like. Similar to market access, there will be tiers or bands. One very important principle is that those members of the WTO that have higher allowed levels of domestic subsidies will be cutting by more than will those with lower levels. To us the key point here, and it's admittedly very much a political point, is that the European Union will be cutting by more than will the United States. So this is going to move us, we think substantially, towards, again, what we call harmonization, which has been one of our objectives. It has become a very important political issue for U.S. agriculture that, again, we can move toward this leveling of the playing field, this time in the area of domestic subsidies.

Those are probably the highlights of what we like about the framework agreement. Now let me give you a list of some things I'll say we are accepting. This is a negotiation. There are 147, now 148 members of this organization. We all have to compromise. There could not be a perfect outcome, as Don said, for all of us.

In market access, the approach that we are headed towards with the final agreement definitely will be less aggressive than what we as the U.S. had wanted. We had proposed the most aggressive tariff-cutting formula; it's called the Swiss formula. That would have meant that, with no exceptions, all tariffs would have been cut drastically. We're not going to have that, but we still have confidence that we can negotiate a very good outcome on market access.

What are we accepting in export competition? Bob Stallman alluded to this: Our biggest export tool is not export subsidies. They're called export credit guarantees, where the U.S. Department of Agriculture guarantees that if a U.S. bank makes a loan that facilitates the importation of a U.S. agricultural product into another market, we will guarantee that loan. So it's an export credit guarantee. What we did as part of this deal, as part of the framework, is we committed to very substantial changes in our programs. In other words, there will be rules for the first time on the use of these export credits and export credit guarantees. The most important example of what that will mean for us is that our biggest program is called the Export Credit Guarantee Program (GSM-102). By the end of the implementation period for this agreement, once it's completed, there will be no such program, so that program will be gone, along with all European Union export subsidies. There will be the possibility of maintaining export credits, but the programs will have to look different than our GSM-102 program now looks. So there is a real commitment by the United States to this process and to the framework agreement.

On domestic support: What we're accepting here, because it was crucial to getting the deal, is real changes, real substantial reductions in our allowed level of domestic support. Here we're talking primarily about what is called the amber box, the most trade distorting policies. To give you an example, one of the speakers this morning mentioned $19 billion – that's our allowed level for what is called amber box trade distorting domestic support. $19 billion. We have over the last several years reported to the WTO that we've been as high as $17 billion with our use of this type of support. Without a doubt, if we can get an agreement at the Doha round, our new ceiling will be well below levels that we already have seen, well below $17 billion for sure. What that means is that all of us who are involved in U.S. trade and domestic policy will have to be thinking about this.

What are we going to need to do? Do we have to head at least somewhat in a different direction? With a ceiling change like that, from $19 billion to some much lower number, when you've been operating at levels like $17 billion, you have to think about changes; and certainly that is a real commitment from the United States.

Let me mention one thing that Dave Frederickson said; he mentioned it a couple of times this morning. He talked about the twenty percent cut that we have committed to. I just want to be clear about that. He said it's a twenty percent cut to get the right to keep on talking. Well first of all, there's a principle in negotiations that nothing is agreed until everything is agreed, so it isn't as if we somehow isolated this twenty percent commitment and said, “You get that no matter what happens.” No, if there's no agreement overall, there's no twenty percent cut. It all has to go together. The other thing is that the twenty percent cut is using (this gets a little technical) a concept called total domestic support, not the amber box. The upshot of it is, as I think Congressman Dooley said, the way we're headed in our U.S. agriculture spending, this should be manageable for us. So it's a twenty percent cut in total support, but if you look at the specifics – I won't get into them and you don't really need to know them, but I'd be glad to talk about them if you have questions – de minimis and other concepts – this really should be manageable for us for U.S. agriculture to do that. I just wanted to be clear about that. So that's what we're doing, what we've brought to the table. We said, "Here's what we're willing to contribute; here are commitments that we're making that if we had fashioned this agreement to our own liking would not, perhaps, have been there as part of the deal."

Now a couple of other points on this: The concept of differentiation again was alluded to, I think, probably by Bob Stallman and Congressman Dooley as well. Differentiation means that because developing countries at the WTO self select whether they are a developing country or a developed country, this needs another look. And we expect, as the United States, that countries like Brazil and Argentina, who are agricultural exporting powerhouses these days, and countries like Korea, a very prosperous so-called developing country, will take on commitments that will be different from the commitments taken on by Nicaragua and Mali and Belize and other countries. We expect that there will be a differentiating among developing countries in terms of the commitments that they're willing to take on. That's included just slightly in a nuanced form in the framework. As we get into the specifics for the final agreement we think it needs to be there, specifically and more clearly than it is. And the last point about the framework is a point you've heard earlier today: We're going to have to have a market access agreement. The market access pillar is going to have to be a good one in terms of what it offers for U.S. agriculture. It's going to have to be sufficient. I can't see any way that a political decision will be made in the United States to accept an overall agreement at the Doha round unless we believe that there is a substantial outcome for us in the area of market access. And then we'll be willing to make the changes in subsidies and the other things that I have talked about.

Let me look forward a little bit here in terms of what I would see, just from my perspective in being involved in this process. What are the key variables, the key questions we're looking at? Well one of them, I would say, would be Brazil and my colleague to my right here and his country. I think that they are certainly to be complimented for their leadership of the G-20. You may be more or less familiar with the history here, but the G-20 has existed for only a little more than a year. We as the U.S. delegation were very skeptical about the origins of this group and what would be done with it, but Brazil and some other countries that have been somewhat difficult to deal with in the process – India, China, and some others – are in this group of developing countries. What Brazil did was, when they really needed to, they brought this group in, as we were trying to complete the framework in late July. They got this group together and they were able to bring this group along so that this group signed on to the framework agreement and some very important commitments. It would not have happened without Brazil's leadership and without Brazil doing that. However, questions ahead I would say, would be for the final deal which will be more difficult: Can Brazil again bring the G-20 along, especially in the area of market access? That's going to be the real challenge, I think. And when I say market access, I mean opening up their own markets, so that India and others will be willing to say, “Yes, I can see that this deal has enough benefits for me that I will agree to substantial market opening.” And can Brazil provide leadership for the G-20 to make a realistic assessment of what is possible in the area of domestic support? Now what I mean by that is that the European Union and the United States are not going to eliminate trade-distorting domestic support. That's not going to happen. At least in this negotiation, it definitely is not going to happen. It has been proposed by some countries but it definitely will not happen. So what's realistic? What's realistic is to get us to move in the right direction. Generally we think in terms of if amber is trade distorting, you move towards green. And the blue box can be a vehicle – I won't get into that – but can be a means of transition. But moving towards so-called non-trade-distorting or green box measures is what we want to do. That's realistic. Get substantial commitments from the big players – that would be us, the European Union, Japan, some others –to be heading towards reform, to be moving this in the right direction. But getting us to slash our subsidies, to eliminate them, or come close to eliminating them, is not going to happen. So we need a realistic assessment of this by Brazil in its leadership position as to what is politically possible in this negotiation, what really can be achieved in terms of domestic support.

In terms of other key questions, the European Union has taken the huge step on export subsidies. We would admit, and Tassos was very involved in this, it has done some very important and admirable things in terms of the reform of its Common Agricultural Policy. Market access, as far as I'm concerned, is a real question. The European Union finds this to be a very difficult area to deal with, and we really need the EU to step up in this process and be able to provide more in the way of market opening than they have indicated they would be willing to do to this point. That's going to be critical.

The other key question or variable would be developing countries in general. Here I'm talking about beyond the G-20 countries, which tend to be the more prominent and more involved countries in the leadership. Remember, of the 148 members of the WTO, more than 100 are developing countries. Are these other countries, especially other than the G-20 countries, going to decide that it's in their interest to have this agreement, to step forward? In particular, when it involves opening up their own markets in some substantial way, is it going to be judged by them to be in their interests? Here's where I think education is just critical: We need to use the time we have for educating and talking to these countries. We have tried in Geneva at the WTO over and over again to do this without, I think, a lot of success. As you all know, the economic literature on this is very clear. The more trade, including the more imports, the more prosperity for that country, the more it comes into the world trading system; this is all a good thing. When we're at the table in Geneva, developing countries do not act this way. They have what I would call a classic mercantilist approach. In other words, put yourself in a position to export as much as you can and minimize the possibility of imports into your market. So despite the theory that we all know about trade being so important for these countries that are so desperately trying to raise themselves up and become more prosperous, they do not behave that way when they're at the negotiating table. We need for them to understand this. We need for them to understand that there are tremendous gains, one could argue more for them than for any of the rest of us, from this. They're not acting that way for the most part at this point, but we will need them to do that.

A couple of general questions to finish up: What's our decision-forcing event going to be? Negotiators talk about this all the time because you live or die on decision-forcing events. We wanted Cancún to be decision forcing. It didn't work. It didn't force us to come together collectively to get it done. That modalities deadline I talked to you about, where we were supposed to have the specifics in March 2003, wasn't even close to being a decision-forcing event. We were able essentially to fabricate a deadline in the middle of this year with a framework agreement deadline that worked. So we need to study that history and we need to understand when it is and what it takes to create a decision-forcing event. What is perceived as a real deadline? Some mention was made this morning of the expiration of our trade promotion authority in 2007. Let's try to do better than that. Let's try not to have that decision-forcing event be in 2007. Let's try to come up with something that's sooner than that.

That leads to a mention of Hong Kong, which is the next ministerial conference in December 2005. There is a very active debate right now in Geneva among those involved in the negotiation as to how we should use the Hong Kong meeting for our work in agriculture. One argument is that there is a year between then and now and we ought to be able to do the agriculture modalities. We ought to be able to lay all this work out, come up with the numbers, come up with the formulas; we should be able to do that. However, many of us are very wary;

those of us who went through the March 2003 experience where we had set up a very clear objective for ourselves and failed miserably in terms of coming up with the Agreement on Agriculture, those of us who were in Cancún and saw what happened there, knowing what effect this has on the image of the WTO and the effect it can have on the process, are very cautious about setting up a high profile objective like that. In other words, let's tell everybody that we're going to get these agricultural formulas, all of these numbers done by the time we get together in Hong Kong in December 2005. So there's no answer to this at this point. The debate will go on for a while as to how we should use that Hong Kong event, but you can never let a ministerial pass without thinking that you want it to be some kind of a decision-forcing event. You want to use it as some kind of a deadline, so maybe there's part of the way that we can go and we can use it as leverage for that, leverage on all of us collectively.

Then finally, the big question is, will the membership step up again as the membership collectively did in late July to get the August 1 agreement. I have to say, being closely involved in this, I found this very encouraging for an organization that was really, in a sense, on the ropes in terms of its viability and credibility. Can 147 countries ever really agree on anything? At times we used to argue with each other about how many could show up from a delegation to a meeting we were having, and we had to come up with an agreement on very important substantive issues like the future of export subsidies and so on, and it was done. It was done because at the highest political levels, key players, and that includes the three represented here and others, said that there is too much at stake here to let this fail. We have to make moves that we haven't made; compromises were made that the key players had never indicated they could make before, and it was able to come together. Now next time it's going to be harder for sure. Next time we'll have all of the specifics, all of the numbers in it at the end. That will be the real agreement, the real commitments. But we're going to need that same attitude. We're going to need that same willingness to do that.

And my last comments are from my level and perspective. Technically, there's a certain amount of work that we are going to have to do with each other at the negotiating table in terms of how you put the formulas together, and so on. That can be done easily next year. I would say that by the middle of next year easily, if it were just a matter of getting the right people to Geneva and working this out technically, it would be no problem whatsoever. That's not the issue. The issue is the political will. At the highest levels in the various members of the WTO, when the time comes, will the political groundwork have been done so that countries are ready? Fortunately they were for the framework agreement, but when it's tougher next time, will they be ready for the political commitments? So let's use the time between now and then constructively. I would suggest that the way to do that is communication, especially with developing countries, education, government-to-government, private sector-to-private sector, academic community-to-academic community. The idea would be to talk about how important this is, what's at stake here, and why this can't be allowed to fail. That's why, again, I congratulate you for having this program. I think this is exactly the kind of thing we need to do. We need to do programs like this around the world, and thank you for inviting me. I'll be glad to participate in the discussion. Thanks.

**Tassos Haniotis**: Thank you. It is a real great pleasure to be back on this campus. I'll try to squeeze as many days in as possible this time around. It doesn't come often that I visit, but when I do it, I really enjoy it. I feel honored by the fact that three members of my dissertation committee are present in the audience. For everything good I say, they deserve credit. For everything bad I say, they had nothing to do with it and it's all my fault. It's a pleasure to follow Jim because one of the things that you don't learn at the university that you do learn in government experience is that it is extremely important always to keep in mind the political constraints we all face in our various positions and to try to communicate to each other in such a way that people know what they could do and what they could not do. Jim is one of those officials from the U.S. Department of Agriculture (USDA) who is extremely respected back in Brussels, exactly because of the manner by which he deals with things, which I think you have seen in his presentation. This makes my presentation a bit easier in terms of covering the overall framework because he did it pretty well.

In terms of trying to cover some of the specifics, there are always challenges when you have to talk about European policies on this side of the Atlantic. We are at the same time the biggest competitors and the biggest partners in this world. And it is keeping in mind both elements at the same time that is essential, I think. There are recipes that are easier to give than others. For example, one recipe why Greece won the European Cup is because they had the German coach with a lot of discipline. And the similarity I find with UGA football is because back in 1980 when I started on this campus, it used to be Herschel left, Herschel right, Herschel down the middle. If you look at the game of Georgia right now, it has much more variety than it used to have in the past. You can't win all your life. You win some, you lose some, but basically what you try to do is figure out what is important, adapt, and change. Basically what has happened in Europe has been in the past. I think I would like to start my presentation by focusing exactly on what has changed in the Common Agricultural Policy and what type of relevance this has with the Doha Development Agenda.

Let's look at some of the differences and similarities between what has changed and what hasn't changed in the past in agriculture in the WTO. If you look at the Uruguay Round experience, agriculture was lagging behind a series of other sectors. If you look at the Doha round experience, agriculture is much more advanced than the other sectors right now, especially after the framework agreement. If you look at what happened in the Common Agricultural Policy in the Uruguay Round's experience, we were with our back against the wall, accused by everybody that we were blocking the negotiations; and we had first to agree on what we were going to do and then reform our policies. The Doha round experience is exactly the opposite. We agreed on the most significant reform of the Common Agricultural Policy in its forty years, and then we agreed on the framework exactly because that reform gave us some margin. So if you have to look at where the linkages of CAP reform are to the Doha Development Agenda, I will try to focus a little bit on the more visible impact on the domestic and world markets and to the less visible impact of CAP reform, trying to get some conclusions at the end.

The first thing you need to look into is that this was something that was coming. CAP reform has taken quite a significant period of time to be implemented, but it has a history that is important to keep in mind. I'm just coming from a one-week trip on a visitor program in New Zealand. The story you heard there, and the story New Zealanders can be proud of, is that they did away with all of their subsidies overnight. Of course, it took farmers ten years to adjust, but at least they did it overnight. And I was trying to explain to them why it's fine for New Zealand as a three million people country, but that with the European Union it is a different type of thing. The arguments that came about are that it's not only that they are a small country and we have to deal with twenty-five countries now (there were fifteen when we did the reform), it is also that in the context of New Zealand, their government had control over all the policy instruments in all the sectors of the economy. In the Union, we have competence on agriculture, on trade and competition, but there are other areas, from industrial policy to labor policy, for example, education research, where competence is on the Member State level, and obviously the path of adjustment is going to be different. When I first arrived on this campus, the CAP was a combination of export subsidies and market supports of the most traditional type in terms of intervention stocks and the rest, that kept growing up until 1991, when everybody realized that this was not sustainable anymore. Another issue that you need to keep in mind is that the EU is not always the same. It was the EU 10 then; it became an EU 12, and an EU 15, and right now we are an EU 25, so it's a completely different beast that one has to deal with. Starting with the 1992 reform, our export subsidies, our traditional market price support, has been going down significantly. It has been replaced by direct aids that are linked to constraints, either in the number of animals or in the area that you use for these aids. They go under the blue box. Also, we are spending more money for rural development. Rural development in Europe is a different concept than rural development in the U.S. It mainly deals with agri-environmental programs, programs of improvement on the farm in order to respect animal welfare, food quality regulations, food safety regulations, and the rest. So this is the picture of the CAP without taking into account the two reforms we did in 2003 and 2004. In 2003, covering the arable crops, the bee sector, and the dairy sector, and in 2004, covering the so-called Mediterranean products: olive oil, cotton, and tobacco.

What impact have we seen from these previous reforms? First of all on the domestic front, if you bring price supports down every economist knows what the result is going to be. There has been an increase in domestic demand, especially in the cereals, which have the characteristic that a lot of them go to animal feeds in the EU, including wheat, and a decrease in the production incentives. Already with the 1992 reform, cereal yield growth (the annual rate of growth) has declined. We have never reached our ceilings on areas or animals, and on top of that there was a significant downward adjustment on the use of imports, which indicates that even the blue box type payments have had less incentive in production than the previous ones. Intervention has become less relevant and generally rather irrelevant in most sectors because price supports now are at the safety net level. And farm income has stabilized globally although there are significant distribution issues, for example which country gets more support than others, which farmers and types of farmers get more support than others. But more importantly, there already have been international impacts. Our surpluses in all sectors have gone down. That implies a lower impact on world market prices; in fact it implies that in most commodities, the EU is already a price taker. So from an economic point of view, if you do a lot of analysis, you are not going to find the impact about the export subsidies that was coming fifteen or twenty years ago.

Where does the reform path lead us from now on? Almost all of these impacts are in the past. The important element of the new CAP reform is that, while we started from a shift of support from product price to producer, what we're doing now is moving more into decoupling in the direction where, based on the historical level of payments to farmers, we shift these payments more away from any linkage to production toward a linkage to issues that farmers have to respect. What we call this is cross compliance. That means that the farmers keep receiving the payment irrespective of production decisions. They can produce or not produce; that's up to them. If they continue to get the support, they have to respect the eighteen directives on agri-environmental measures, food safety, food quality, and animal welfare measures. And finally we look for a better balance of support by enhancing the rural development policy instruments in order to meet the new higher standards; by shifting funds from market support to rural development through cutting the support to farmers (up to five percent of the direct support goes away from their pocket into the rural development schemes); by already introducing the possibility that if we need more money for reform, the money will come from the budget that is already there and not from additional money; and by strengthening the linkage of this policy instrument to our overall objectives.

Since I mentioned objectives, let's link two things, because this is a linkage of domestic support to international commitments. What are we talking about when we talk about WTO? We're not talking about support and subsidies in general, we're talking about trade distorting subsidies. It is extremely important to get this message, because for both the U.S. and the EU, it is simply politically infeasible to expect that support is going to go away. Why? Because in all the process of CAP reform, what we tried to do is to compromise a policy dilemma, or a contradiction. What we have said in Europe since 1999, in our agricultural policy and now as part of our draft constitution that applies to other sectors, we want to be competitive and we also want to meet the highest standards. But if you are competitive in world markets, you have to compete at low prices. If you have to meet the highest standards, you have to have increased costs of production. If you want to meet both objectives simultaneously – and to the best of my understanding this is not an issue only for the EU, it's an issue for developed countries and it's becoming an issue for some of the developing countries – you have to find ways of supporting your farmers without distorting trade, or at least with distorting trade in the most minimal possible way. The best way to do that is decoupled support. So I think that if people still have thoughts that what Europe did in its domestic support was, first of all, an easy process that could be repeated, they need to think carefully when they estimate the potential for further progress in this round. I have seen this reform, especially the first three years in the cabinet when I was responsible for CAP reform. I've seen how close it got to not being achieved. My comments above leave aside sugar, which we have to reform. We've already put a proposal, and I think the framework of this reform implies that we will have significant chances of getting it through. It also doesn't apply to the two non-reform sectors, which is fruits and vegetables and wine, where we can move in the same direction, but it clearly indicates that the manner by which we reform is what is politically acceptable internally. And I'll comment a little bit later on that again. Briefly, in terms of price support reductions we already have done, soft wheat, durum wheat, and beef had very significant price cuts in terms of percentages; rice with the reform of last year was cut by fifty percent; the butter and the skim milk powder less, and the butter price drop especially implies a significant adjustment in our dairy sector.

If you look now at some of these issues and how they relate to WTO, when it comes to the amber box, the EU can accept a very significant reduction, thanks to CAP reform. When we say significant, at least sixty-five percent is based on what we already have done, and that does not include sugar. What this implies is that the EU certainly can cut more than the U.S., and we have accepted doing that; but it also implies that the overall ambition, if you want, of the EU determines what should happen in U.S. farm policies and also the pressure of the rest of the world. I think it is clear that when it comes to the trade distorting policies of U.S. domestic support, these have to be adjusted. It is also clear that the ceiling of five percent on the blue box recognizes the CAP reform process already, but the U.S. needs a redefinition of the blue box to put its countercyclical payments, which are new with respect to the previous commitments they had. On a de minimis rule, the past use was mainly for the U.S.; now most of it, through the countercyclicals, will move into the blue box. It basically is irrelevant for the EU, but in the overall balance there is going to be an overall reduction of domestic support guaranteed. The twenty percent down payment is not just symbolic, it's so that we don't have to do anything now. But it already indicates that if you start with the twenty percent on the first step, which is as much as we did overall in domestic supports in five years in the previous round, we're talking about significant cuts of the trade distorting elements of the domestic support.

Two examples to see how the EU and the U.S. compare: When you talk about domestic support, you're basically talking about the two big transatlantic elephants. They are the ones that have the big money for that. In the EU in 1993, our market measures accounted for more than thirty billion euros. This is only the budgetary cost; it does not include the support for sugar and dairy through the gap between the domestic and the price support. So, this is amber but it is not the amber box. The amber box is even higher. Area annual payments were only less than three billion. By 2000, already our market measures have dropped to a little bit over ten billion, and our blue box payments were roughly twenty-six billion. By 2008, and that is for twenty-five members, not for fifteen, market price support would be less than four billion, area payments around eleven billion, and most of the support would be in the form of decoupled payments. And that is assuming the minimum of what the Member States could do because they have the option to decouple from seventy-five percent up to 100 percent, for example. On cereals, most of our farmers now are pushing for 100 percent decoupling.

What is the difference between what we have done and the U.S. domestic support? The market price support in the U.S. is basically now the dairy and the sugar programs. If they don't get reformed, this type of commitment stays without a single taxpayer's dollar being spent on it. This is pure market price support, based on the gap between domestic price and the world market price, or reference price. Next comes loan deficiency payment. There have been some other product supports that were ad hoc and decreased in recent years. This is based in the official U.S. notification of 2021, therefore of the old farm bill. Then are the insurance schemes, disaster payments, market loan assistance, which now has been replaced by the countercyclical payments – this is the big question mark about how U.S. support policies are classified – and non-product supports. Then there is the current ceiling of the U.S. domestic supports. As I told you before, we are ready to cut by sixty-five percent. Whatever the U.S. will cut, we will face our problems. Why? Because the structure of U.S. farm support is basically countercyclical across the board. It's not only the counter cyclical payments; crop insurance schemes and loan programs have this impact. When prices are high, expenditure for these programs is low. When prices get low, then obviously the costs go high. And that is possible in the U.S. because you don't have a fixed budget commitment. In Europe, it's not possible to do that any more because we have a fixed budget, and that is what forced us to debate more about efficiency of policy instruments. To give you an example, we increased our farmers by fifty percent; the money available was only fifteen percent more. So that acted as an incentive.

And now to try to summarize the linkage of our reform in the other WTO pillars: Sometimes we are criticized saying, "Okay, you did a lot on domestic support. That's good. You accepted to phase out export subsidies; that's even better. But you've done nothing on market access." One thing we have to clear is that export subsidies, especially domestic support, are unilateral issues. They're issues that are driven mainly by domestic concerns. Market access is a multilateral issue that is driven by the give and take of all parties together, both within agriculture and taking the other sectors into consideration. It is also clear that the elimination of export subsidies, which was a catalyst, not only in our view but in the view of others I think, in moving this process or in getting a framework agreement, applies to more than just export subsidies. And let's be clear here. When we talk about food aid, we don't talk about food aid driven by humanitarian needs. Nobody has ever claimed that we should discipline this type of food aid. On the contrary, we have to increase this type of food aid, all of us. What we are talking about is specific programs that actually are meant to aid in the surplus disposal of domestic commodities. And I don't think we can go through this round with this program remaining intact. It is also true that we will not go through this round if there is no discipline in single-desk sellers in export monopolies. And I think the U.S. also made a major effort in accepting disciplines in export credit programs. I think in that area we need some more technical debate that is going to move it all through.

And here I come to what clearly is going to be the most difficult part of getting an overall agreement: market access. This is the most difficult one because it involves all parties. Everybody has an interest in market access – defensive, offensive. It's not like domestic support or export competition, which mainly are either two players, or some others, mainly in the developed world. It is important, in our view, that we have what we call the self-selection of sensitive products. What does this mean? It means that in the past when we were talking about one formula, when you start cutting the highest tariffs more, obviously these highest tariffs are exactly on the products that are more sensitive to you. So there has to be a way out with a simple solution. Although it's clear now that what we have to do in sensitive products is something with the recognition that they are sensitive. It's for the negotiations to determine how many products and exactly how we deal with it. What needs to be clear is that there has to be a single approach for everybody. The developing countries need to do less and over a longer frame period than the developed world, but they have to do something and they have to do it in the context of a single formula.

And here, I think it's important to keep in mind something specific about the EU. The U.S., as we heard, exports roughly sixty billion dollars of agricultural products; we export roughly sixty billion euros of agricultural products. The U.S. imports a little bit less than thirty billion; we import sixty billion. Where does this come from? Mainly from the developing world. We have granted free access of our markets to the least-developed developing countries through the Everything But Arms agreement, which is actually the agreement that is pushing through the sugar reform. And we still believe that dealing with that issue of special and deferential treatment is extremely important, if for no other reason, because trade preferences exist. If you don't take this into account, the issue of preference erosion becomes extremely important for developing countries to swallow. A lot of these figures that you see coming from the World Bank about the potential benefits of trade have one very particular problem: they don't take account of the EU preferences. If you look into EU preferences, the trade-weighted average EU tariff comes roughly to eleven percent. And of course Brazil would rightly say that all tariffs are pretty high, which is true, but the tariffs of the developing countries are zero. So as tariffs go down, some of the biggest losers of this round are going to be among the developing countries for the same reason that some of the biggest winners are going to be in the developing countries. I'm not implying here that we shouldn't go ahead. We should go ahead, because overall trade is much better than the current situation, especially within developing countries where they have the highest barriers. But we need to be aware of the need for some sort of mechanism where these things are going to be taken into account.

Finally, there is the issue of the overall balance in ambition of the Round that is going to be determined exactly by this pillar. This pillar of market access has the characteristic that when it comes to the G-20 Group, we don't only have the two transatlantic elephants, in market access we have the two Asian elephants, China and India, that also have very different structures of their tariffs, very different interests. There is a real challenge there in the G-20 in how they handle that. I'm not saying that as a criticism but just as a fact, for the same reason there is a challenge for us to reform domestically with twenty-five countries. But what is also more important to keep in mind is that this is not a round of agricultural negotiations only. It is a round of overall trade negotiations. One of the reasons that boosted CAP reform in the past is interesting to keep in mind, because there is a whole generation of agricultural economists, consultants, government officials, and generalists who grew up with the notion that in order to reform the CAP, you need to have a WTO or GATT crisis, a food safety crisis, a budget crisis. A combination of all three is the best of all, and you have to have France and Germany together. This is a reform that happened without any of these conditions by the time it happened. But it happened in a manner that brings EU agriculture more forward than where we have been in the past. And in the past, CAP was the area where we had to give in order to get something else in the other sectors. And Europe needs more market access in industry, in services, in public procurement, and the rest. It is exactly the sort of balance where we determine at the end of the day how far we're going to move in the area of market access in agriculture, because we have now a structure where we know that if we don't move too much in market access in agriculture, the U.S. will not reform too much on domestic support. If we move too much in market access, there is a certain limit beyond which the developing countries cannot go, and their overall move in agriculture will have to be, on the European side, linked to what happens in other areas. And with that, I'll have to stop. Thank you very much.

**Evandro S. Didonet**: First of all let me thank Ambassador Johnson for this invitation. I have benefited a lot from the presentations this morning and now in the afternoon. We had speakers from the private sector, we had government, we had Congressman Dooley, so I really benefitted a lot and I appreciate this invitation. Thank you so much.

Previous speakers, in the afternoon and in the morning, have already touched on many issues I was going to mention, so I'll try to be brief so we can have more time for the discussion session. Let me start with the importance of agribusiness in Brazil and why we see the Doha round as our number one trade priority.

Agribusiness represents one-third of Brazil's GDP, thirty-seven percent of employment in Brazil, and forty-two percent of our exports. This year, Brazil expects a trade surplus of thirty-two billion dollars. All of this thirty-two billion dollar trade surplus will come from the agribusiness sector. You might think that Brazil is having a mercantilist approach with regard to trade negotiations or trade in agriculture. It's not that. The fact is that Brazil needs a trade surplus. In 2004, Brazil will have to pay thirty-four billion dollars in foreign debt amortizations. This does not include interest payments. So a trade surplus is not a policy option for Brazil; it is a must. Brazil does not have the option of running current account deficits. Brazil must run a current account surplus, or a trade surplus, in order to be able to repay its foreign debt. And that's why agriculture is so important, and that's why the Doha round is our priority number one. Brazil definitely is committed to the success of the Doha round, assuming that the Doha round will be the round that will finally bring agriculture into the mainstream of the multilateral trading system. I also must say that Brazil takes pride in the role we played so that we could reach the Geneva framework agreement of July 2004. Brazil, as you know, was one of the members of the group of five interested parties: Brazil, the United States, the European Union, Australia, and India. I must say that Brazil was not in the group of five interested parties as *Brazil*, we were acting as the coordinators of the G-20.

Point number two: Was the framework agreement in Geneva a breakthrough? In terms of process, in terms of form, yes, it was a breakthrough because in the past, the WTO was basically a duopoly of power between the two big transatlantic powers, the United States and the European Union. Now the developing countries are having a more active voice, and I think this is good. This is good for the multilateral trading system. This is good for all stakeholders, for the U.S., for the European Union as well, because that reinforces the commitment to the multilateral trading system among developing countries. Decisions that are going to be taken at the WTO are decisions that we will have had the participation of developing countries to a degree that we did not have in the past. So I think this is good. In terms of substance, previous speakers already have made clear that the most difficult part is still ahead of us. What we have now is only a framework agreement, general guidelines that we have to transform into modalities, meaning guidelines with numbers, with figures, and then we still have to reach a final agreement.

Point number three: I'm going to be very brief here as well because the previous speakers already have laid out what the issues are. I briefly just wanted to say that in terms of the first pillar of export subsidies, Brazil finds it very encouraging that that the European Union agreed to eliminate export subsidies. We find it also very encouraging that we are going to address other forms of export support. As James Grueff said, the technical work is not difficult, the main challenge ahead is political. In the case of export subsidies, we have to define a credible date to abolish export subsidies and other forms of export support. In terms of domestic support, Brazil is also very encouraged by the decision to reduce overall trade-distorting subsidies; and again, the challenge is political. We must be able to achieve meaningful cuts in trade-distorting domestic support. Of course we are realistic: We know it's not possible to have complete elimination of all forms of domestic support but we must achieve some degree of meaningful cuts. Also a very positive principle in the framework that applies to domestic support is that countries that give more subsidies will have to cut more. This is also very encouraging. The third pillar, market access: It's clear from the previous speakers that this is going to be perhaps the most difficult negotiation ahead. It is positive that we have reached an agreement on the guideline that higher tariffs will have to be cut more; but again, this is going to be the most difficult negotiation ahead.

The next topic of my presentation is the discussion on special and differential treatment. We've heard a lot, not only this morning but this is an important topic, many voices saying that countries such as Brazil or Argentina should not benefit from special and differential treatment. Let me make some comments on this. This is a very important issue; it's a political issue. I want to make this point: Brazil is not hiding behind special and differential treatment. To be quite frank, Brazil does not take real advantage of special and differential treatment. Why? Take tariffs: Brazil's applied average tariff on agricultural imports is ten percent, which compares to twelve percent in the United States and twenty-nine percent in the European Union. So we have tariffs that are lower than in the United States and in the European Union. More than that, the highest applied tariff in Brazil for agricultural products is twenty percent. In the U.S. and in the European Union, you have a number of tariffs above 100 percent, or even more. So we are not taking advantage of S&D in terms of tariffs, nor are we taking advantage in terms of domestic support. Brazil's total rate of support is 5.6 percent of total production value. This compares with around thirty percent in the U.S. and in the European Union, while Brazil's total rate of support, including green box payments, is 5.6 percent. I must say Brazil is late on our notifications; our last notification was in 1998. We must catch up on that; we are aware of that; we are working hard on that to update our notifications. It is in our own interests because we will be able, therefore, to show how little Brazil is subsidizing. And

I suspect that when we update our notifications that Brazil's total support for the most recent years will be below five percent of total production value, including green box payments. That shows that Brazil would be able to put all its domestic support programs under the *de minimis* level for developed countries. The message is that Brazil is not hiding behind special and differential treatment; it's not taking advantage of that.

Having said that I must say that we do not favor a systemic discussion about special and differential treatment in the WTO at this moment, at least. Why? Because we think that (1) the focus of this round should be on cutting subsidies, and the big subsidizers are developed countries, which account for ninety-five percent of all subsidies worldwide, and (2) we think this would be a very divisive issue that would perhaps impede success in the Doha round. Again having said that, I'm not saying Brazil is not ready to take commitments that go beyond commitments taken by other countries, such as India, for that matter. So, that's the information I wanted to share on the issue of special and differential treatment.

One very brief comment on litigation and negotiation: As we are all aware, Brazil opened a challenge on cotton subsidies in the United States and on sugar policies in the European Union, but what I wanted to stress is that at this moment in Brazil, the focus is on negotiations. Those two panels were opened back in 2002 at a moment that there was a high degree of frustration in Brazil with the fact that the Doha negotiations were going nowhere. So out of frustration with the lack of results and perspectives, in the Doha round we initiated those two panels; but right now, the focus is on negotiations. I would like to stress one point: I'm not aware of any intention by the Brazilian government to open new cases in the short term. If you read in the press, you might see rice producers in Brazil or ethanol producers floating the idea of opening new challenges. I'm not aware of any intention to open new challenges in the short term, though.

A final comment on the way ahead: we hope that we should be able to conclude the Doha round by the end of the year 2006. We believe that there is now a window of opportunity. The present TPA will expire in 2007. In 2007, the United States presumably will vote a new farm bill, so we think that the right time to reach an agreement on the Doha round is before that. Again, this is not a target; we have set no targets. But we hope, as James Grueff said, that we could reach an agreement on modalities in the ministerial of Hong Kong in December 2005, and then come to a conclusion of the Doha round in 2006. We have no illusions; we know that the tough job is still ahead of us.

As a final comment, as Tassos Haniotis said, of course the round is not only about agriculture. There are other issues on the table, and Brazil is willing and ready to take appropriate commitments on other issues as long as we can move forward and make meaningful progress in agriculture. Thank you very much. I shortened up my speech so as to have time for the discussion period. Thank you.

**Unidentified Questioner**: I have a two-part question. First of all, what are the dynamics of seeking consensus when you have 140 members, 100 of which are developing countries. And second of all, to what extent do considerations from other negotiated areas play in the agricultural context, for example Brazil and its concessions in the pharmaceutical area and the IP (intellectual property) negotiations when you're talking about agricultural subsidies? In the talks among the parties, do other areas or concerns leak into agriculture or agricultural negotiations, or vice versa?

**Grueff**: Well I can start. Those are two very good questions. The second one first. I just work in agriculture; I don't work in the other areas. I can tell you that when we're negotiating on agriculture, and I also worked on the Uruguay Round, the previous negotiation, we don't ever talk about nonagricultural issues in our negotiations on agriculture. However, at USTR, especially at higher levels, they have to put it all together and make an assessment. "Okay, this is where we came out on agriculture, on nonagricultural, on industrial products; here's where we came out in what we were looking for. On services, this was the result. On balance, does this look like it's a critical mass that we need." And then an assessment has to be made on a national basis as to whether this agreement was in the interest of the United States overall. But I can tell you that we never do any horse trading, so to speak, since we're in agriculture, within agriculture. Tassos wouldn't come into the room and say, "We're going to give you what you were really looking for on services. Now give us that concession on export subsidies." That doesn't happen. So we're in an area that's really stand-alone, but obviously at the top levels of the various members, assessments have to be made.

Your other question, I'll talk about briefly. It's one of the most fascinating aspects of the organization and the culture at the WTO. It is a consensus organization. That's somewhat misleading because basically what happens is that you have to come up with a result that is acceptable enough to all members, but then clearly there is an informal process where pressure can be brought to bear if there are holdouts that, for whatever reason, look like they might stymie the entire process. I won't mention any names, but we saw that with the framework, where there were relatively few countries at the very end who were saying, "I have this one very specific problem." Then a lot of pressure was brought to bear on this country or that country, by saying, "There's a lot more at stake here than your particular issue," or, "We'll make sure you get a fair hearing later on," or whatever it would be, "but we really need you to come along." Because as you said, there's no voting process here; it has to be consensus. So what you need is all members to be responsible enough that at the end of the day, they'll say, "Okay that issue didn't go the way I wanted it to go but I can't make a decision as one of the fourteen to hold up the entire final agreement. That would be so irresponsible of me as a WTO member that I won't do it." And we're counting on that; we're counting on that kind of accountability from all of the members.

**Haniotis**: I think you raise two extremely important questions because in the EU case, the issue is not only how you build consensus at the WTO level, but how you build consensus within our Member States. And there what we do is we get an overall mandate from our Member States to negotiate. And the overall mandate has the basic outlines, basic figures later on, for example, but it doesn't have the nitty gritty details. There is a continued process of informing the Member States of where we go. In this particular round, and that was the same in the previous round, you had both the trade commissioner and the agricultural commissioner involved – the overall negotiator was the trade commissioner – and they always have the overall balance of the rounds in their heads, and they know where they have to make the necessary moves. But as Jim said, when you go into the technical details, you have determined pretty much what your limits are going to be and you focus on these limits. You live for the end, the overall, no tradeoffs. The most important elements we have seen in building up consensus in these negotiations is that we are talking now, and this is a positive development, about a much more multifaceted type of organization than before. It is true that when you have new players, the old balance changes. There are going to be winners in the process and losers in the process and some that will be embarrassed, left out, where there used to be leaders in the past in some particular areas. But at the end of the day, what determines what happens in consensus is the alternative to an agreement, which is a non-agreement, and who will get the blame, and are they ready to accept the political costs that come with that. And that is exactly how this system has worked.

**Didonet**: I'll add that I think that the fact that the WTO works by consensus gives it more strength, gives it more legitimacy, although sometimes we have the impression that it moves too slowly, that the decision-making process is too difficult, but it gives it more legitimacy. So I think this comment is important. And in terms of balancing different items of the agenda, the domestic interests with regard to different items under negotiation, I think this is something that happens in every country. Brazil has offensive interests in agriculture. We have no major defensive concerns in agriculture. On the other hand, we have some important defensive concerns in terms of industrial goods. Brazil is comfortable in terms of services. We have very open markets for services – energy, telecoms, financial services – so then you have to look into the whole picture and determine where your national interest lies in terms of the overall balance.

**D. Johnson**: I'd like to add just a brief comment to that, too, because having been at USTR, I know that there's very little horse trading that goes on between sectors. You often get accused of that. The textile industry used to always accuse us of trading them off for some other more sexy industry, and I think very little of that is done. They used to get accused of that in the Uruguay Round, for example. You've got to be very careful about doing that, trading one sector within agriculture, for example, or certainly textiles for electronics, or IP for something else. Very little of that is done within USTR, even. And then, on the other issue about consensus, in the old days the EU and U.S. sort of dominated things, much more so than they do today. Witness Brazil; and I think you guys would attest to that. Brazil and the Group of Twenty: He's sitting here today representing the Group of Twenty and how much influence they have in this process and in the framework agreement, and so forth. Before Seattle, you had the green room that operated so effectively. After Seattle, there was so much criticism about transparency and so forth that when we got to Doha, almost all of the decisions and all of the process was done in the plenary session. Very little was done in a green room type atmosphere. You've seen a lot of changes in that regard, so consensus is a little different than it used to be. Other questions?

**Unidentified Questioner**: When you're talking about developing countries, and that pool seems to be bigger and bigger, you have a country like Mali and you have a country like China, do you classify the value of those differently?

**Grueff**: It's something that some of us have touched on today. I used the term differentiation, which is a WTO term. Let me sort out a couple of things here. First you have the developed countries. Then you have developing countries as a big group. Within developing countries, you have a group called the least-developed countries. Now there is a list put together by the United Nations of the least developed, so everybody knows who's on that list. Our problem that you'll hear us and others complain about is that to get developing country status in the last negotiation, which determined which commitments you took on, you just made a decision for yourself. We called it self designation. Korea declared itself to be a developing country. Mexico's a developing country. What's problematic is that you have Brazil and Argentina, who are world leaders in agricultural trade, who for purposes of the existing Uruguay Round Agricultural Agreement are developing countries. So the least developed is clear: These are the poorest of the poor countries, like Mali. That's not an issue. It's these others a little further up the ladder, especially the ones at the top, the most prosperous or the most influential in agricultural trade, and what do you do with them, and should they have the same commitments, the same benefits, the same special and differential treatment that countries all the way down at the bottom of the ladder have? Our answer basically is no, they shouldn't. There should be some way to distinguish among them. I think that Evandro has indicated that Brazil has at least some sympathy with that approach. They're willing to take on commitments that the poorer developing countries are not willing to take on. Evandro gave a very clear explanation of how, in Brazil's view, they're not benefiting from special and differential treatment. Let me just mention one aspect of this that is very important to us. It's not about the existing special and differential treatment. It's about what we're going to be negotiating. For example, in the domestic support area, there are ideas that the developing countries should be able to provide trade-distorting subsidies that developed countries would not be allowed to provide, that they would get a break in terms of the subsidies that they could provide. This is an example of where we want to be very careful. Okay, maybe the really poor developing countries will get some breaks on that, but Brazil is, to say the least, a major competitor of the United States. We don't want them to be able to provide domestic subsidies that are trade distorting and production distorting that are not available to the United States. We think that that is not the kind of equitable situation that is appropriate at this point, when considering their status.

**Haniotis**: Our angle on this issue is, in a sense, different because the structure of our support is different. I mentioned before that with the Everything But Arms agreement we already have opened up our markets to the forty-nine poorest countries in the world. On top of that, we have a lot of preferential agreements with the so-called ACP (African-Caribbean-Pacific) countries. Most are former colonies of one or the other EU Member States. And I think the best example of the complications we get in the treatment of these developing countries is not only their classification, but the potential differential impacts of what will happen. The best way to deal with that is to look at our sugar market, which is one of the two litigation cases. We already have put the proposal to reform the sugar market, which brings down by over thirty percent our domestic support, which cuts down the level of the quota, and therefore the exportable surplus and the need for export subsidies. But what is the impact of this? You can say that if you didn't do it now, you would have to do it the next round. But whenever you do it, the impact is the following: There is one thing that has to happen to your domestic producers, and you can see ways of compensating them partially for the loss into their support, as we have done in other sectors, and providing them the capital support. They don't really mind, especially because this is going to be significant. But in the developing world, you are going to have countries that, in the past, exported their sugar to the EU at a high domestic support that will now have to face a cut in this price they were getting and therefore a cut in revenue. On top of that, if the Brazilian panel stays until the end, they will have to even find a way of cutting part of their exports to the EU. And then you have a whole debate of how you really compensate these countries. And the debate on compensation should be different, whether this country is competitive, whether it somehow could be competitive with some adjustment programs, or whether, in the absence of the support and the preferences they have from the EU, they wouldn't be producing sugar altogether. This is exactly the debate that is there for our domestic producers, because some countries will end up not producing sugar if this reform goes through. So how you deal with the differentiation of developing countries? If you see it from the point of view of the EU and the type of preferences we have, it deals mainly with the type of mechanisms that are or are not in place to compensate losers of the process of trade liberalization from the overall welfare gains that go with this process. Within the context of the EU: What is the EU? It is also an example of trade liberalization: we have a common market, we have common competition rules, we don't have internal borders. This mechanism of compensation is what we call our structural funds. It's the money that goes from the net payers, the rich countries, to the poorest ones to help their economy adjust. When you talk about a world context, it is exactly this linkage between the effects of trade liberalization and the mechanism whereby we deal with these effects, which is not as clearly in place to everybody, that generates all these concerns. Some of the concerns are moving the in direction of classifying developing countries in a different way when we look at their export capacity. Some of them look at their import needs and the potential impacts of what is happening.

**Unidentified Questioner**: What is an example of your rural development mentioned on your slide?

**Haniotis**: The rural development is internal. It's programs that help the farmer, for example, over a five-year period to make all the adjustments that are necessary in his stable, to increase the space so it meets animal welfare requirements; help farmers enter into certification schemes that identify animals from the level of the farm and the feed they have, all the way to the end of the food chain; or early retirement schemes in some of our Member States; or you pay for a limited period of time for farmers to give up farming; or measures that improve the environment. All of them are limited in time, and they are co-financed by the

Community budget and also by the budget of the Member States and are implemented and promoted at the local level, the level of the local authorities.

## Agriculture and the WTO: Subsidies in the Cross Hairs

*Tuesday, November 16, 2004*

WTO Dispute Resolution: The Cotton Case

Moderator: *Gabriel M. Wilner*, Professor, Associate Dean, and Executive Director, Dean Rusk Center, University of Georgia School of Law
*Kevin C. Kennedy*, Professor, Michigan State Law College
*David Palmeter*, Counsel for Brazil in the WTO Cotton Case
*William Gillon*, Counsel for National Cotton Council

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**Gabriel M. Wilner**: The speakers on the panel which will discuss the cotton case each have agreed to speak for about twenty minutes. Thereafter, there will be an opportunity for the speakers to respond to what they each have said, a short discussion among speakers if there is to be one, and then questions will be taken by the speakers. My role essentially is to listen carefully and my pleasure is to introduce the three speakers. I thought I would do that all at once so we wouldn't have any interruptions during the meeting.

Our first speaker today will be Professor Kevin Kennedy, from Michigan State University Law College, where he teaches international trade regulation, international litigation and arbitration, NAFTA, civil procedure, and conflict of laws. He's published a number of articles on international trade and a monograph called *Competition Law and the World Trade Organization*. He has contributed to other publications, particularly in the area of NAFTA and the WTO. He is, in addition to his work as a scholar and teacher, a Chapter Nineteen Binational Dispute Settlement panelist in the NAFTA.

Our second speaker will be Mr. David Palmeter, who is a partner at the Washington, D.C., offices of Sidley Austin Brown & Wood, where he advises governments and other interested parties in dispute settlement proceedings. At the WTO, he has been involved in dispute settlement from the very beginning and has advised governments on various issues that come up before the WTO. He is the International Bar Association's antitrust and trade law committee's liaison to GATT and the WTO and to the United Nations Committee for Trade and Development. He is the author of a leading text in the field of WTO settlement, a second edition of which was recently published by Cambridge University Press.

Mr. William Gillon is counsel for the National Cotton Council, practices with the Corporate Services group of Butler, Snow, O'Mara, Stevens & Canada in Memphis, and concentrates his practice on agricultural law, trade, and biotechnology. He is the outside counsel for the National Cotton Council, where he served as general counsel for a number of years; he was senior counsel to the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate for four years; and before that he had been an attorney in the Office of General Counsel in the United States Department of Agriculture. He is currently a member of the Agriculture Technical Advisory Committee for Tobacco, Cotton, Peanuts, and Planting Seeds and an official adviser to the current round of multilateral trade negotiations under the WTO. He also was an official Congressional Adviser to the Uruguay Round of Negotiations and to the NAFTA negotiations as well.

So these are our three speakers. As the program indicates, we will begin with Professor Kennedy.

**Kevin C. Kennedy**: Thank you, Professor Wilner. Good afternoon. A special thanks to Ambassador Johnson for his very kind invitation to be here; it's a great honor. And a thank you to the staff at the Dean Rusk Center; they've been wonderful and very hospitable. I guess I could start off with a disclaimer: I don't have any disclaimers to make. I don't have a dog in this fight; I am truly an academic who sits in an ivory tower. As you probably can guess, we don't grow cotton in Michigan. Seventeen other states do, but we don't, so I come at this from a purely academic interest. And also, let me give a preemptive apology: I have to leave at 4:30 to catch a plane, so if I leave in the middle of either of my co-panelists' remarks, it isn't because of anything you said necessarily.

We have a very diverse group here today, and, well, I'm a teacher. I'm sure you've heard the fable of the frog and the scorpion. The frog and the scorpion were sitting next to the banks of a river, and the scorpion wanted to get to the other side. The scorpion asked the frog, "Would you take me on your back across to the other side?" The frog said, "I'll have nothing to do with that. You'll sting me and kill me." The scorpion gave the frog certain assurances: "I promise you I would not be so ungrateful as to sting you for taking me across the river." So the frog thought about it and said, "All right, climb on," and they made their way across the river. Just as they got to the other side, bam! The scorpion stung the frog. The frog was stunned. "How could you do that to me?" The scorpion said, "Well, it's in my nature." Well, it's in my nature to explain things. That's why I'm a law professor. There are a lot of students in the room and other people who aren't familiar with international law of agriculture, so youth must be served. I think it's important that everyone understand what's going on here, if for no other reason than to be an informed citizen. I'm going to do my best to try to explain.

Let me start with a quote from Michael Wilson, who is a former Canadian minister of trade. It's in a slightly different context; he was introducing legislation in the Canadian parliament to approve NAFTA. He was on the subject of rules of origin, and he had this to say, "Rules of origin are very, very complex. You don't want to know about them. They are terrible things to deal with." Well, I feel the same way about the international rules on agricultural trade. I don't have the option of not dealing with them. I have to deal with them; it's part of my job. But they are very complex.

What I thought I would do is describe what happened in the Cotton Panel Report, make a prediction about what might happen at the Appellate Body, and speak briefly about the special cotton provision that's in the framework agreement that was agreed to last summer. A little background on cotton and some perspective: In terms of its percentage of total merchandise trade, cotton occupies one-tenth of one percent of total global merchandise trade. That's minuscule. On the other hand, forty percent of total fiber production is in cotton; but on the third hand, that's down from about sixty-eight percent in 1960. Of course, synthetic fibers have taken the lion's share. Synthetic fiber holds about a fifty-seven percent share. There are eighty countries that produce cotton. The table forecasting the top ten producers for MY (marketing year) 2004/2005 shows

China, the United States, India, Pakistan, Brazil, Uzbekistan, Turkey, Australia, Greece, and Syria. You don't grow crops and harvest them all within a same calendar year; there's some slopover, like a fiscal year. USDA (United States Department of Agriculture) statistics show the top five as China, the United States, India, Pakistan, and Brazil.

The largest exporter of cotton is the United States by far. I was very relieved to hear from our Brazilian friend Mr. Didonet about why the litigation versus negotiation strategy, and he confirmed my suspicions that the negotiations were stalled; so the cotton case was a prod. I don't know if there's any cause or effect here, but I'm glad to hear that they're backing off, because I think negotiated solutions are the best ones in any context. The dispute focused largely on what is called the peace clause, which doesn't exist anymore. It expired. I don't know if there's going to be a new one or not. But in any event, you had to satisfy certain criteria in order to bring a complaint. This whole idea of a peace clause or a cease-fire clause was that, "Look, we won't complain against each other in the WTO about agricultural subsidies." It's a timeout, unless — and the *unless* is if your subsidies to a specific commodity exceed a benchmark year. That benchmark year is 1992, shown in the table *WTO Panel's Findings on Levels of Domestic Support to Cotton* (see page 95), which is right from the 300-page, ten-point type, single-spaced panel report. It's quite dense. In any event, Brazil complained that the United States had granted domestic subsidies to its cotton producers in excess of the amounts that were given in 1992, and that those excess subsidies cause, in WTO-speak, *serious prejudice* to the interests of Brazil. I'll talk about serious prejudice in a minute.

Well, that gets us to the table *Farm Support Disciplines under the WTO SCM and Ag Agreements* (see page 97). How do we calculate this? You have to figure out what to add, subtract, or not include when you're doing this calculation about whether or not you've exceeded this 1992 benchmark year. There are categories of subsidies; it's kind of a blend. In the table title, *SCM* means subsidies and countervailing measures. There's a separate agreement for agricultural subsidies, but the two agreements do dovetail at certain points. You have what are called exempt green box subsidies. You can give to your heart's content; you can give as much as you want, and there are no violations of any WTO rules whatsoever. Examples are decoupled income support payments, and decoupled means it cannot be linked or tied to production in any way. Other examples are crop disaster programs and agriculture extension services, which all ag schools have. And of course, the United States has no reduction commitments; no WTO member has any reduction commitments whatsoever with regard to green box subsidies (green as in go).

Let me explain the three kinds of subsidies we have: domestic subsidies, export subsidies, and import substitution subsidies. Let me start from the bottom up. Import substitution subsidies are subsidies that are contingent upon using the domestic product over the imported product. Those are illegal. Then we have export subsidies. Export subsidies are contingent upon export performance. Then we have domestic subsidies — that's all the rest. Export subsidies are either prohibited or not in the agricultural context; I'll explain that very shortly. In any event, the domestic support obligations are viewed through the amber box subsidies, and you've heard many times today that that's capped in the United States at $19.1 billion. I have selected examples from the 2002 Farm Act subsidies that were at issue. Direct payments I have listed with an asterisk indicating that that's the categorization that the WTO panel gave in *Upland Cotton*. The United States position is that those are green box subsidies, or income support; therefore, you can't count them against us. The WTO panel that looked at this said, "Well, you know, it's got to be *completely* decoupled." There's an annex to the agriculture agreement that talks about qualifications for income support. It says that the payments that are given shall not be related to or based on the type or volume of production. The problem that the WTO panel saw with the U.S. direct payments program is that there is a prohibition, a restriction, in receiving direct payments. You cannot grow and harvest fruits, vegetables, and wild rice. Why fruits, vegetables, and wild rice? Because those products don't receive subsidies under the U.S. Farm Act. Growers of fruits, vegetables, and wild rice were concerned that they're going to be in competition with farmers who receive subsidies. So to make sure that didn't happen, there's this prohibition. There's an acre for acre penalty. Suppose you're a cotton farmer and you grow fruits, vegetables, wild rice, and you harvest them. The panel looked at that and said, "It's not completely decoupled; therefore, it can't be green box. We're going to push it down into amber box. It's going to count against you, but we're trying to figure out if you broke through this 1992 benchmark." Countercyclical payments, crop insurance payments, there were some others—cotton seed payments.

Then are what are called excluded blue box subsidies. The green box subsidies are income support, the amber box subsidies are price support, and in the United States with the countercyclical payments you have this target price. If the world price is below the target price, you get a check. If the world price is above the target price, then you don't get a check. (The domestic measure is 72.4 cents per pound.) With regard to excluded blue box subsidies, this is production limitation payments, land set asides. This was important for the European Union, and it all came about as a result of a compromise agreement that the United States and the European Union reached in 1992 called the Blair House accord. How can we square the Common Agricultural Policy with the negotiations that are going on in the Uruguay Round? Well, this was the compromise that was reached. The United States doesn't use land set asides currently so there were no obligations there. Then you have export subsidies, and here I distinguish between agricultural export subsidies and non-ag subsidies. You might be interested to know that it is illegal under the WTO agreements to provide export subsidies to any non-agricultural product. We're already there in the non-ag sector. It's just agricultural products that can still receive export subsidies. But the rub here for the United States is that you can't give export subsidies to any product that wasn't scheduled. There's a schedule of commitments that WTO members made. Cotton was not one of the products that the United States scheduled as far as export subsidies were concerned. Thirteen other commodities are, but cotton was not included. That makes any export subsidies to cotton illegal. They rolled out into the prohibited red light category.

Here, as far as red light subsidies are concerned, we're talking about two programs. One is the Step 2 payments and the other export guarantee programs. The Step 2 payments have two features: It favors U.S. exporters of cotton and U.S. users of cotton (textile mills). What it provides is that, if you're going to export U.S. cotton or use U.S. cotton, we'll make sure that the price you pay is not higher than the world price for U.S. cotton. If it turns out that the U.S. price is higher than the world price, we'll give you a subsidy to offset the difference. At least from my perspective, it is to encourage the exportation of U.S. cotton and also to encourage the domestic use of U.S. cotton. Well, to talk about the Step 2 payments for a bit, the U.S. made what I guess I consider to be a desperate argument. Candidly, I found a lot of desperate arguments being made by the U.S. I know nothing of what goes on behind the scenes; I'm going to speculate that it was hardball litigation and "let's let the WTO panel be the bearer of sad or unhappy tidings. Let them take the fall for this." Defending everything, conceding nothing. I used to be a litigator, and that was never my litigation tactic. It was the tactic of some of the people I worked with. I sense that that is what's going on here. In any event, the panel said, "Look, these Step 2 payments are to exports; they have to export the cotton in order to get the subsidy; it's clearly contingent on export performance; and you haven't scheduled cotton in your export subsidy commitments, so it rolls down to the agreement on subsidies and countervailing measures, making it a prohibited red light subsidy. You've got to get rid of it. Regardless of any injury it causes, it's prohibited; it's illegal; you've got to get rid of it." With regard to the other feature of Step 2 payments to domestic users, textile mills, the panel concluded, "Well, this is an import substitution subsidy." If you look to the agreement in agriculture, it is silent on import substitution subsidies. The U.S. argued that that should be considered amber box, that it's a form of domestic support. The panel disagreed and said, "No, it's an import substitution subsidy. We've got to read the SCM (Subsidies and Countervailing Measures) Agreement together with the Agreement on Agriculture, and there's no category for import substitution subsidies in the agreement on agriculture. There is in the SCM agreement. Those are prohibited. That's what we have here. You have to get rid of those, too.

Thirdly, export credit guarantee programs, to oversimplify (and those of you who are sophisticated in the area, please bear with me), are if you sell cotton abroad and you sell on credit, you don't want to get burned, but what if the buyer doesn't pay? Well, the U.S. government stands ready to protect you, to guarantee payment in the event there's a default on payment. You pay a premium for this. The WTO panel looked at it and said, well, those aren't necessarily or per se illegal, but we have to make sure that whoever is running this program — in this case, the credit commodity corporation — is a breakeven operation. If premiums aren't sufficient to cover operating losses and costs, if they're operating at a loss, then this is a subsidy. They looked at the numbers and concluded that this was an illegal subsidy. Well, you get down to "let's do the numbers" and the WTO panel did the numbers. Some of these programs are from the predecessor law, the 1996 Farm Act. They looked at the benchmark number, then looked at the years 1999-2002 and said, "Well, in every single year, you've exceeded your 1992 benchmark," in 2002, \$3.1 billion, \$4.1 billion in 2001, \$2.4 billion in 2000, and so on. Although I said I have no dog in this fight, I do have one personal interest, and that's as a U.S. taxpayer. I care where my money is being spent, and as I get older, I care even more. I am a dyed-in-the-wool fiscal conservative; my wife will attest to that. I understand and believe that there is something special about farming, but that's a lot of money. So the panel concluded, "U.S., you lose." There have been a lot of football metaphors used today. If I put a score on this one, I'd say Brazil 49 : U.S. 10. It wasn't a shutout but it was a rout by Brazil. That's round one.

What's going to happen on appeal? I don't like to speculate on these things, especially when we're going to get the answer fairly shortly, sometime early next year. But having said that, let me tell you where I think the panel decision is somewhat vulnerable or extremely vulnerable. The direct payments part and this business about the planning flexibility restrictions — I'm thinking about what Mr. Stallman of the first panel said today, and he's absolutely right. Drafting is really key with WTO agreements. You've got to be so careful. And we're learning this in the trade remedies area, in the Antidumping Agreement and in the Subsidies and Countervailing Measures Agreement, where there's a feeling among some users in the U.S. that we're being burned, that this is not what we agreed to, and the Appellate Body is creating new obligations that were not agreed to by the United States. We have a highly effective judiciary in the WTO, but a completely dysfunctional legislature. We don't have any body to essentially overrule misreadings of the WTO agreements. We've got the Ministerial Conference. These agreements can be renegotiated in the context of a negotiation round, but it's not like a Congress. If the Supreme Court really skips the tracks, Congress can overrule the Supreme Court on matters of statutory construction, obviously not on questions of constitutional law. Anyway, on a literal reading of decoupled income support, I guess the panel is right. But there is no requirement in U.S. law that you plant something; it's just that you can't plant certain things. I kind of felt that that's what they had in mind when they drafted it. I can see that is not what the language says; there's a prohibition but no requirement to actually grow something. So I'd rate the panel's decision as maybe slightly vulnerable on that one.

On export credit guarantees, I was quite surprised at the panel's decision. If you take a look at Article 10.2 of the Agreement on Agriculture, it goes to some length to talk about export credit guarantees, that we're going to talk about this, and they don't say it explicitly but the forum was going to be the Organization for Economic Cooperation and Development. I kind of thought that there were no commitments made on export credit guarantees, that that was the argument the U.S. made. If this was just hortatory language, I would have expected to find that in the preamble to the Agreement on Agriculture, not in the Agreement itself, not as a legal obligation. So I find its placement telling. The panel saw it differently, but I see the decision as potentially vulnerable on that score.

To get to another point where I see the panel decision potentially vulnerable, we go back to Brazil's case. What did Brazil have to prove? Well, Brazil had to show that cotton was receiving subsidies in excess of those received in 1992. Brazil did that. The next step is Brazil has to show what is called serious prejudice. There are different measures of serious prejudice; one is what's called adverse effects. Here, Brazil said, "Our adverse effects are that, by reason of these subsidies, we have experienced significant price suppression in the same market." Price suppression is if you're in a situation of rising costs, but your prices stay flat or don't rise enough to cover your costs. Causation is always a funny thing, particularly in the trade remedies area. You have to be really careful not to attribute your injury to something else. Is it the subsidies that are causing your problems in world markets or the same market, or is it some other cause? And the U.S. identified at least four causes. One was mentioned earlier: the depreciation of the U.S. dollar. Another issue is China subsidies to cotton; and let's be clear, the U.S. is not some free market sinner in the church of free market saints. There are at least nine countries that provide support to their cotton growers, and China is one of them. The best guess estimates that I've read are that China subsidizes up to twenty percent of their production. That's not insignificant. So China subsidies are a potential cause for price suppression, as are the depreciation of the dollar and loss of market share. Synthetic fibers now have a majority position as far as market share, and, as I said earlier, cotton once had sixty-eight percent of total world market share and now it's down to forty. You would expect there to be some price-suppressive or depressive effects. If the WTO Appellate Body holds the WTO panel to the same exacting standards to which it holds the U.S. International Trade Commission (USITC) when the USITC makes its causation analysis, I think the panel decision is vulnerable. I didn't really see the panel come to grips with these arguments or to discount them and still be able to say at the end of the day, "It's the subsidies that are the problem."

This is somewhat of a minor technical point, but in showing these adverse effects, the language of the Agreement on Subsidies and Countervailing Measures says that there is price suppression in the same market. What they're talking about here, by way of an example, Brazil and the U.S. both are exporting to China and there is price suppression in that China market. You're supposed to be focusing on a country, maybe a region, but the panel said it can be a world market. To me, that just makes a hash out of the phrase "in the same market." If you're going to default to "in a world market," then why this language, "the same market?" And you do find the phrase "world markets" in other parts of the agreement. So, when the drafters wanted to say world market, they knew how to do it. So again, so what? What if I'm right? Even if I'm right on all these points, the export subsidies, at least the Step 2 payments, I don't think have a snowball's chance in hell of getting past the Appellate Body. Export credit guarantees — I don't know.

There is also one other issue, and that concerns an argument that Brazil made about threat of serious prejudice. Brazil was going for the whole enchilada here. They argued, "Not only have we suffered present injury from the period 1999-2002, but we're going to be threatened with serious injury in the years 2003 to 2007 when the 2002 Farm Act expires." I don't know if it was exhaustion after writing a 350-page opinion or what, but this does come, coincidentally maybe, right at the end of the decision. And the panel said, "We're not going to bother with Brazil's argument because we're confident that the United States is going to amend and change its nonconforming subsidies laws, and that will make the threat disappear." I can tell you right now, if the U.S. International Trade Commission made that kind of threat analysis, it would get reversed in a New York minute, no question about it. I'm puzzled by that, but again, we'll find out soon enough.

Last, and just very quickly, what about sub-Saharan Africa (see table, page 96)? You heard this morning that there is a special provision in the 2004 framework agreement with regard to cotton subsidies to give them special consideration. Well, what is in that framework agreement is really a token gesture. It says that cotton subsidies are to be considered "ambitiously, expeditiously, and specifically," but in the overall context of agricultural negotiations. Oh, and "We're going to create a separate subcommittee to study this." Well, it is not what the four sub-Saharan African countries of Mali, Burkina Faso, Benin, and Chad wanted. I've given you some statistics. They export most of what they produce. They grow very little other than this. These ten million people in west and central Africa depend on cotton, and if their cotton crop fails, people starve. You've heard about the Doha round? Actually the title is the Doha Development Agenda. This was supposed to be about developing countries; it was supposed to be their turn. I haven't heard a lot of discussion about them. Whether or not anything comes of this, I don't know; I tend to be somewhat pessimistic. All that we've heard about least-developed countries — all these countries listed are least-developed countries in sub-Saharan Africa. Think of the whole continent of Africa with the exception of the northern tier countries. Forget about Egypt, Libya, Algeria, Morocco. It's all those forty-eight countries that are in the Sahara or below it. Thirty-five of those forty-eight are least-developed countries, the basket case countries, the world's poorest people. My students will tell you that I am no bleeding heart, and I'm not. The finger gets pointed a lot again at U.S. subsidies. Again, China and other countries subsidize as well. We're kind of working at cross purposes in our agricultural policy and our international development policy. I think there needs to be some better coordination here. Anyway, I've gone over my time. I apologize. I'll stop there. Thank you.

**WTO Panel's Findings on Levels of Domestic Support to Cotton**

| $ million | MY 1992 | MY 1999 | MY 2000 | MY 2001 | MY 2002 |
|---|---|---|---|---|---|
| Marketing Loan Programme | 866 | 1761 | 636 | 2609 | 897.8 |
| User Marketing (Step 2) | 102.7 | 165.8 | 260 | 144.8 | 72.4 |
| Deficiency Payments | 1017.4 | 0 | 0 | 0 | 0 |
| PFC Payments | 0 | 616 | 574.9 | 473.5 | 436 |
| MLA Payments | 0 | 613 | 612 | 654 | 0 |
| DP Payments | 0 | 0 | 0 | 0 | 181 |
| CCP Payments | 0 | 0 | 0 | 0 | 1309 |
| Crop Insurance Payments | 26.6 | 169.6 | 161.7 | 262.9 | 194.1 |
| Cottonseed Payments | 0 | 79 | 184.7 | 0 | 50 |
| **TOTAL** | **2012.7** | **3404.4** | **2429.3** | **4144.2** | **3140.3** |

**Cotton Production, Imports, and Exports for MY 2004/05 Forecast**
**World's Top 10 Producers (in rank order of production)**

| Country | Production (1,000 Metric Tons) | Imports | Exports |
|---|---|---|---|
| China | 6,532 | 1,252 | 44 |
| United States | 3,919 | 9 | 2,460 |
| India | 2,722 | 261 | 22 |
| Pakistan | 1,905 | 327 | 44 |
| Brazil | 1,415 | 109 | 435 |
| Uzbekistan | 1,002 | 1 | 675 |
| Turkey | 925 | 474 | 50 |
| Australia | 523 | 0 | 457 |
| Greece | 337 | 4 | 196 |
| Syria | 294 | 0 | 152 |

Source: USDA, Foreign Agricultural Service

**Cotton Production, Imports, and Exports for MY 2004/05 Forecast**
**Sub-Saharan Africa's Top Ten Producers (in rank order of production)**

| Country | Production (1,000 Metric Tons) | Imports | Exports |
|---|---|---|---|
| Mali | 233 | 0 | 223 |
| Burkina Faso | 200 | 0 | 196 |
| Benin | 147 | 0 | 142 |
| Côte d'Ivoire | 114 | 0 | 109 |
| Zimbabwe | 109 | 0 | 76 |
| Cameroon | 105 | 0 | 93 |
| Sudan | 87 | 0 | 71 |
| Togo | 72 | 0 | 67 |
| Tanzania | 71 | 0 | 49 |
| Chad | 70 | 0 | 60 |

Source: USDA, Foreign Agricultural Service

**Farm Support Disciplines under the WTO SCM and Ag Agreements**

| Subsidy Categories | Examples | U.S. Obligations | Major 2002 Farm Act Programs at Issue in *Upland Cotton* |
|---|---|---|---|
| Exempt *Green Box* Subsidies | decoupled income support payments<br>crop disaster programs<br>extension services & research | no reduction commitments | |
| Capped *Amber Box* Subsidies | price support payments | $19.1 billion cap | direct payments*<br>countercyclical payments<br>crop insurance payments |
| Excluded *Blue Box* Subsidies | production limitation payments | | |
| Agricultural Export Subsidies | subsidies contingent as a matter of law or of fact upon export performance | reductions on scheduled products; prohibited on unscheduled products | Step 2 payments to exporters*<br>export credit guarantee programs* |
| Prohibited *Red Light* Subsidies | non-ag export subsidies import substitution payments | prohibited | Step 2 payments to domestic users* |

*Categorization according to WTO panel in *Upland Cotton*

**David Palmeter:** Thank you, Kevin, for your remarks. I hope you're wrong on some of those points. Thank you, Mr. Chairman.

Let me begin with a disclaimer. I do not speak for the Government of Brazil. My firm represents the private sector industry associations in Brazil concerned with cotton and sugar, and we have been involved in that capacity with the WTO legal disputes involving those products. But, as you know, WTO disputes are government-to-government matters, and, therefore, government officials, not private lawyers, are responsible for them. We merely provide legal advice to government officials to the extent that they request it.

At this conference, and in other venues, I have heard two general points made against Brazil for initiating the cotton dispute with the United States. First, it has been said, Brazil is attempting to use the case to obtain benefits without paying for those benefits with concessions in the Doha round negotiations. Second, it has been said, this dispute will make it more difficult for the United States to agree to concessions in the Doha round.

I do not believe it will surprise anyone to hear that the industry in Brazil reacts to these objections just as an industry in the United States would react if those objections were made against its insistence that its interests in existing trade agreements be protected. As to the first objection – that Brazil is trying to get something out of the Doha round without paying for it – the obvious reply is that the cotton dispute has nothing to do with any possible Doha round agreements. It deals with the already concluded Uruguay Round agreements. Why should Brazil or its industry pay anything in the Doha round to secure rights already paid for in the Uruguay Round?

The second objection – that the cotton case will make it more difficult for the United States to agree to further concessions in the Doha round – is even more puzzling. It sounds as if the United States were saying to Brazil, "If you insist on our keeping the agreements we've already made, it will be difficult for us to make any new agreements with you." From Brazil's perspective, however, the question is, "If you won't honor the agreements you've already made, what's the point of our making a new one with you?"

The United States, it is worth noting, has not been shy about asserting its rights, as it sees them, in the WTO. Why should Brazil or any other Member be different?

Why did the cotton producers in Brazil urge their government to start this case against U.S. subsidies? Here are some of the reasons:

- Between August 1999 and July 2003, U.S. producers of cotton received more than twelve *billion* dollars in subsidies, according to U.S. Department of Agriculture figures. The value of the U.S. cotton crop during this period was less than fourteen billion dollars. *This translates into a subsidy of 89.5 percent.*
- In 2001-2002, the U.S. government paid nearly four billion dollars in subsidies for a cotton crop that was worth little more than three billion dollars. *This translates into a subsidy of 129 percent.*
- Between August 1999 and July 2003, U.S. producers' total costs of production were, on average, seventy-seven percent *above* cotton market prices received by those producers. Subsidies made up the difference.
- Between 1997 and 2003, the average U.S. acre planted to cotton generated cumulative market revenue that was $872 *lower* than the cumulative total costs of production of the cotton grown on that acre. Subsidies made up the difference.
- Cotton prices plunged in 1999, 2001, and 2002, hitting a record low twenty-nine cents per pound in 2002, far below the twenty-year average price of seventy-two cents per pound. Yet, U.S. acres planted to cotton consistently increased during this period, from 13.1 million in 1998-1999 to 14.6 million in 1999-2000, to 15.3 million in 2000-2001, to 15.5 million in 2001-2002. In other words, as prices fell, year after year, *more* acres were planted to cotton, not less. This reversal of what economic theory tells us should have happened is accounted for only by subsidies.
- Increasing amounts of this subsidized cotton were exported. The U.S. share of the cotton export market increased from seventeen percent in 1998-1999 to forty-two percent in 2002-2003.
- U.S. exports more than doubled, even though the value of the dollar was increasing by 154 percent against the basket of currencies of other cotton producers, such as Brazil.
- At the same time, Brazilian and African cotton producers had costs of production that were less than half those of the average U.S. producer.

Prof. Daniel Sumner of the University of California at Davis, on behalf of Brazil, presented to the WTO panel an econometric analysis of the impact to the U.S. subsidies on Brazil. That model, which was based on the so-called FAPRI (Food and Agricultural Policy Research Institute) model developed at the

University of Missouri and Iowa State University, and which is used by the U.S. Congress itself to assess agricultural programs, showed:

- U.S. cotton production would have been, on average, twenty-nine percent *lower* during 1999-2002 without the subsidies.
- U.S. exports would have been, on average, forty-one percent *lower* during the same period, without the subsidies.
- Prices received by Brazilian and other producers would have been, on average, 6.5 cents per pound, or 12.6 percent *higher* during the same period, without the subsidies.
- During 1999-2002, Brazil's cotton farmers lost $478 million in revenues from cotton prices that were suppressed by the subsidies.

This important case is presently on appeal and, therefore, we are limited as to what we can say about it. However it comes out, it is an important landmark case for a number of reasons:

- It is the first dispute in the history of the WTO to challenge *domestic* subsidies for the production of cotton.
- It is the first WTO panel report that applies the WTO rules concerning subsidies that cause serious prejudice to agricultural subsidies.
- It is the first WTO panel decision involving *export* subsidies specifically directed to agricultural products.
- It is the first WTO dispute dealing with agricultural export credit guarantees.
- It is the first WTO dispute dealing with the meaning of *green box* agricultural subsidies.

The panel that rendered the decision was an *ad hoc* panel of three from countries that were not involved in the dispute. The chairman, who has sat on a number of panels, including some important subsidy disputes, was from Poland. The others were from Australia and Chile.

The three-members of the division of the Appellate Body that is hearing the appeal come from three countries, but only one is a so-called *neutral*. A member from India is joined by a member from Brazil and a member from the United States. By way of background, let me explain that the Appellate Body is composed of seven members who serve for a four-year term with the possibility of being reappointed to an additional four-year term. Three are selected by lot to hear appeals as they arise. Thus, it was not by design that the Brazilian and U.S. members were selected for this dispute, it was simply the luck of the draw. Given the suspicions that abound, I suspect it is fortunate that, so long as the name of one of them was drawn, the name of the other was drawn as well.

It would be presumptuous to speculate on how the Appellate Body will rule on either the U.S. appeal or Brazil's cross-appeal, but I can say that we are confident of the results.

A point I would like to make about the appeal process is an echo of what others have said at this conference. That concerns the importance of the words in the WTO agreements themselves. From the very start, the Appellate Body has focused sharply on the precise text of the treaties. Its approach has been, "We don't really care what you now claim you meant to say, we care about what you actually said." Appellate Body opinions – and now, panel opinions as well – refer to the dictionary so often that some joke that the dictionary is an official WTO legal text.

There are several reasons for the Appellate Body's emphasis on treaty text. For one thing, they are explicitly directed by the WTO Dispute Settlement Understanding to interpret the treaties according to the rules of interpretation of public international law, and these rules emphasize the text. More important, perhaps, is simple caution. The WTO Appellate Body is unique in public international law – an appellate tribunal whose decisions are tantamount to being final decisions, in a legal system with compulsory jurisdiction over sovereign states. The last thing such a tribunal wants to do is to open itself up to is criticism that it is *activist* or that it *made up the law* in a dispute. Hewing closely to the text reduces the risk of that kind of criticism.

It doesn't always work, however, because the texts themselves are less than perfect. Disputes repeatedly expose ambiguities and even outright contradictions in the texts. This, too, is not surprising. We heard earlier today that the teams negotiating the various agreements worked pretty much on their own and that there were few trade-offs and little interplay among them. This is understandable, as each agreement alone involved a major negotiating effort. No wonder that there was little time at the end to conform them all to a standard legal model with conforming legal terminology.

The result is that terminology and phrasing relating to the same or similar subjects may differ from agreement to agreement, and, as every lawyer knows, this can create difficulties. Agricultural subsidies, for example, raise issues under both the Agreement on Agriculture and the Subsidies Agreement. Difficulties in deciding on how the two agreements fit together are compounded by differences in phraseology in them. When this happens, the interpretive question always arises: If the governments that negotiated these agreements meant the same thing in both instances, would they not use the same terms in both instances?

Let me refer briefly to Kevin Kennedy's analysis, not to criticize but simply to note that if his analysis is correct – and we believe Brazil will be far more successful on appeal than he suggests – the U.S. cotton program nonetheless will suffer a major blow. The program will have to be revamped extensively in order to conform to U.S. obligations under the Agreement on Agriculture.

It is interesting to speculate on how that might play out. The panel has given the U.S. until July 5, 2005 to withdraw the prohibited subsidies that are contingent on export or on the use of domestic content. The U.S. would be given a reasonable period of time to bring the other measures into conformity. That reasonable period of time is negotiable. As a practical matter, so is the July 5 deadline, although an agreement extending withdrawal beyond this date would be complicated because, in order to preserve its right to take countermeasures if the U.S. does not withdraw the prohibited subsidies, Brazil normally would need to act on the basis of a timetable running from that July 5 date.

If negotiations do not extend the July 5 deadline set by the panel for withdrawal of the prohibited subsidies, and if action taken by the U.S. to withdraw the subsidies was insufficient in Brazil's view, Brazil could call the original panel back to review the U.S. action. This review decision itself could be appealed. This process would take several months.

While all of this is going on, the Doha round agricultural negotiations also would be going on. Right now it seems likely that the end of the Doha negotiations will occur toward late 2006. The time limits for the United States to comply with the cotton report (and for the European Union to comply with the sugar report, if that is upheld on appeal) quite conceivably, either through negotiation or through the normal process of the cases, could occur around this time as well.

If, as we believe, Brazil will prevail in the two cases, Brazil's hand in any such negotiations will be considerably strengthened. Both the U.S. and the EC would have to make significant changes in their agriculture programs just to comply with existing Uruguay Round obligations; Brazil, by contrast, would have to do nothing. Nevertheless, this possible dovetailing of the final stages of the negotiations and the final stages of the cases opens the possibility of resolving the disputes in the context of the negotiations, and that may make the process somewhat easier from a U.S. perspective.

I will wind up with a more general observation. Trade disputes can lead to heated remarks and to hard feelings. There is a lot at stake, and people can feel strongly about these issues. But it is important to keep a few things in mind. First, economic theory makes it clear that increased trade brings increased prosperity to the countries that engage in it. Second, and perhaps more important, trade is about more than material prosperity alone. This was pointed out earlier today by the Agriculture Commissioner of Georgia, Tommy Irvin, who noted that even during the Cold War, we exchanged produce with the former Soviet Union, not rockets, and that the exchange in produce may well have prevented an exchange of rockets. Former WTO Director-General Peter Sutherland once made a similar point. "When countries stop trading goods," he said, "they start trading blows."

GATT, the WTO's predecessor, was created after World War II by people who understood this. Prominent among them was a cotton merchant who became Assistant Secretary of State for Economic Affairs, Will Clayton of Mississippi. Clayton and his colleagues were very much aware of what happens in a world of economic turmoil and misery, which protectionism only makes worse, and they set out to build a system of rules to end it.

Today, we still have a vital interest in that system that goes far beyond the very real economic benefits of trade itself, as great as they are. The system has served us well for more than fifty years, and we should do nothing that would weaken it and risk bringing back the chaotic system of bitter national rivalries that preceded it.

For half a century, the United States has been the leader in developing – in insisting upon – rules of law to govern international trade and an effective system to implement them. The WTO legal system is, in a very real sense, *our* system. We need to support it when it is applied to us, as well as when we are using it against others.

**William A. Gillon**: Thank you very much. I want to thank Ambassador Johnson for inviting me here. It's really a pleasure to come back. I haven't made it back to Georgia very much since I graduated, but it has really been a thrill to come back. I want to say a few more words about that, but before I do, I know that you (Professor Kennedy) have to go catch a plane, so I wanted to make just a couple of comments about your presentation first. My presentation is essentially the U.S. defense of this case. So we're kind of going backwards, from an analysis of the panel's decision to the Brazil political perspective and what they saw going into this case, and then what the United States did prior to the panel's decision.

You expressed surprise that the U.S. seemed to be defending everything and conceding nothing, even stating that some arguments seemed desperate. I certainly wouldn't say that some arguments don't seem desperate. There may be desperate arguments on both sides. However, the notion that there's a problem with defending everything and conceding nothing may be a little bit misguided in this context. The U.S. government's laws and statutes that have been challenged in an international tribunal, the administration must defend them. If any administration chose not to defend particular parts of this program, it would have quite a bit to answer to when it turned around and came back home, including, for example, the Chairman of the Senate Agriculture Committee, who's now about to be the Chairman of the Senate Appropriations Committee. And that's just one individual who sees cotton as a vested interest. So I think from a litigation perspective, a government, when it's challenged in the WTO, is bound by its own laws or obligations to defend what it has on the books to the best of its ability.

**Kennedy**: So the domestic litigation analogy is totally inadequate?

**Gillon**: I don't think it works. Now, the government is going to take as much care as it can, so that anything it argues in this case doesn't come back to burn it in a later situation. I know some of the attorneys at USTR who work on this. They're very bright people, and they have to be because some of these arguments have to be very carefully constructed so they don't come back and inhibit the ability of the U.S. somewhere down the road to challenge a practice from another country that it deems as egregious as Brazil deems the cotton program in the United States.

You mentioned that the cotton-specific language in the framework agreement was a *token gesture*. After dealing with this case, after hearing David's emphasis on precise definitions of words in the WTO, and after reading many panel decisions that state that "if they said it here and they didn't say it over there, they had to have meant something by the fact that they said it over here," I'm rapidly getting to the point that I believe there is no hortatory language in the WTO. There is no token gesture in the agreements because the panels are tending to read so much into them. With respect to the framework, there were some very critical, sometimes single-word changes in the cotton-specific language from the draft of the framework to the final document. The changes were subtle, and if I hadn't been paying particular attention, I wouldn't have noticed that they had changed. These kinds of small changes are picked up by panels and negotiators. It may be there are no *small* changes or token gestures in these documents.

Let me say that The University of Georgia is a very special institution. It's special to me. The impact of Professor Wilner's programs and the programs at the Dean Rusk Center are felt internationally. I've been very fortunate to be able to practice at least partially in the international area since I left here. That's not something that I really knew that I would be able to do, but it has come my way and I've really truly enjoyed it. About two years ago, I was on a trip to China. I was in Beijing and my clients were meeting with representatives of the Edelman group, which is a large international public relations firm. A young lady with Edelman seemed excited to meet me. Her name is Chihua Wang. She said she was thrilled to meet me and had been looking forward to seeing me in Beijing. Since this does not happen to me every day, I was somewhat perplexed, but she explained that she is an LL.M. graduate from UGA. "I'm one of your fellow alumni." She had just graduated from the graduate program here, and her first job was back in Beijing with the Edelman group. I had traveled all that distance, I had come to that office, and there was someone who would say, "Go, dawg, go," in the room with me. It's special. The alumni group from this school is growing in international circles and so is its influence. This is something to be very proud of and to keep up. A fellow classmate of mine, David Hegwood, who currently is with the Food and Agriculture Organization in Rome, has worked with me on international agricultural policy for many years. I have been so fortunate to have received this kind of background and to move forward with it. Now I'd better talk about the subject at hand before I run out of time.

It is a difficult job to give presentations in this area; because, as you can tell, working through just the agricultural programs in the U.S. that are the subject of this dispute is very complicated. The various provisions in the WTO that are applicable to this dispute add another layer of complications, as do some of the finer points of economic analysis. As you all know, all economists always agree on the way all things impact all of the world. So of course, that point gets really simple, right? Well, no, of course not, it gets really complicated.

This case is a 341-page testament to the ability of litigants to layer complication on top of complication. The professor is right, virtually nothing was yielded by either side. No matter how tangential a line of arguments might be, the other party would follow that tangent before coming back to center, never knowing whether the panel might think that tangent was important or not.

We've gone over enough today about what agreements we're talking about here. There also has been discussion about the various U.S. programs that are involved. I will just point out here that there are programs in the 2002 Farm Bill and its predecessor, the 1996 Farm Bill, that were under scrutiny. We've also mentioned that the challenge covered Export Credit Guarantee Programs for all commodities, not just cotton.

Mr. Palmeter discussed the legal structure of the WTO. I think we've probably already handled this well, but one thing this case has done is to bring to the agriculture community in the United States a greater understanding of the structure of these agreements than it had prior to this dispute. I would daresay that if I polled most agriculture organizations, even in Washington, in December 2001 or 2002 before this thing really got started, they wouldn't have known that they had to worry about the agreement on subsidies and countervailing measures. They wouldn't have understood the connection between these agreements. The concept of the peace clause being temporary in nature just had never really gotten home to them, and they really didn't understand the interplay between these two agreements. But we do have this dual system, with the agricultural agreement setting out the disciplines that are supposed to be applicable to the various countries' agricultural policies and market access commitments and with the subsidies code that essentially authorizes the cause of action that a country may bring against another for a violation of agreements. As long as that peace clause was in the way, it tended to dissuade countries from bringing causes of action under the subsidies code against agricultural subsidies. Nonagricultural subsidies don't have a separate agreement outside of the subsidies code. (There's an agreement on textiles, but it's for another reason.) There's no agreement on the manufacturing of widgets sitting out there creating confusion about its interaction with the subsidies code. But in agriculture, there are two agreements because it took so long to bring agriculture into the system. Therefore, it's going to be brought in kicking and screaming, and it's going to be brought in one step at a time.

The other initial point I will make is that the timing of this controversy is very significant, given that we're in the middle of the Doha round. The United States is again running deficits which can have a major influence on agricultural policy in the United States. So we have this case that brings home in a much more real way than ever before that these agreements are real, that they're important, and that they impact U.S. domestic agriculture. Even congressional members who may not have believed it before definitely are going to believe it now. In the future, when the U.S. develops agriculture policy, I think it will do it a little bit differently.

I'm going to talk briefly about three major components of the case from the U.S. perspective: The *peace clause* claim that was raised by Brazil (after seeing the chart provided by Professor Kennedy, it would seem impossible for the U.S. to defend against that claim); the *prohibited subsidy* claims mentioned, which were the export subsidies and the import substitution subsidies; and the *serious prejudice* claims raised by Brazil. I'm going to confine my discussion to the U.S. arguments made to the panel. I'm not going to use this opportunity to comment on the panel decision at all because the dispute is ongoing.

You've heard, very nicely stated by the professor earlier, that the peace clause essentially requires a comparison between 1992 levels of support and subsequent levels of support for cotton, and that what Brazil had to prove was that the U.S. exceeded 1992 levels of support. The panel's decision was based on their findings shown in the table. The panel's proof that the U.S. breached the peace clause is the difference between two billion dollars expended in marketing year 1992 and expenditures in 2000 and 2001 which were significantly in excess of two billion dollars. This is a simplistic approach that perhaps misses the point. There are a couple of things to point out about the peace clause. The comparison is with respect to "measures [that] do not grant support to a specific commodity in excess of that decided during the 1992 marketing year." The language requires the granting of support to a specific commodity, so we must look at support granted to cotton. One of the problems with the table comparing expenditure levels is that it has support included that is not at all coupled to the production of cotton. It contains expenditures that would be provided to cotton producers whether or not they planted a seed of cotton in a particular year. Despite this critical difference, the panel found that decoupled support was support to cotton. We don't believe that's the case. Likewise, the United States believes that a bare comparison of expenditures, which essentially is what this table is, is not an appropriate comparison for the purposes of the peace clause.

As a quick comparison, in 1992, total U.S. support for cotton was about 72.9 cents a pound. In general, U.S. cotton programs under the 1990 U.S. farm bill were fully coupled to production. For all support provided under the 1992 bill and during the 1992 marketing year, there had to be cotton produced in order to earn that support. So the support program itself would directly encourage the production of the commodity. There were exceptions to this linkage, but they were minor. If we compare that to 2002, the loan program, which is still a very significant part of U.S. domestic programs, is still coupled. But it is at a lower rate, although a marginally lower rate than in 1992. The target price program is no longer coupled to production, and it also is operating at a lower rate than it was back in 1992, again a marginally lower rate. The direct payment program is not coupled to production or coupled to price.

The target price program in 2002 is coupled to price. In other words, it will trigger payments depending on whether prices are low or prices are high, but it is not coupled to production. The United States believes this is a critical difference in these programs that was essentially overlooked by the panel in making its peace clause analysis. The cotton loan rate that was applicable in 1992 was 52.35 cents per pound and it has dropped marginally to fifty-two cents in 2002 and has been frozen there for quite some time. From 1991 through 1996, there was a cotton target price of 72.9 cents a pound. There was no target price from 1997 to 2001, so you pick it up again in 2002 at 72.4 cents a pound, again half a cent per pound lower than the target prices that existed back in 2002.

We've already heard a lot about green box classifications, and in the interest of time I won't go into it very much, but the U.S. again argued that the direct payment program and production flexibility contract payments should be properly classified as green box and should never have found their way into the calculation of levels of support under the peace clause. Which leads me back to kind of where I started: Where is the support to a specific commodity? In other words, where is the support to cotton, the support that would, from the U.S. perspective, encourage the production of cotton, which is what the peace clause points to. Two out of the three main program components are no longer coupled to cotton production. Only one remaining component remains coupled to production. Overall, the rate of support coupled to production is twenty cents per pound lower than the 1992 level of coupled support.

The last point I want to make on this, to go back to Professor Kennedy's table and look at the marketing year 1992 table column, if there had been no change in the U.S. cotton program subsequent to 1992 — none — and in marketing year 1996 the price of cotton had dropped by one cent per pound below the price of cotton in marketing year 2002, under the panel's analysis, the United States would have violated the peace clause with no change in policy. So, from the U.S. perspective, the difference, the problem, is that when it's an expenditure or dollar-to-dollar comparison given in agricultural markets where price movements are determinative as to ultimate expenditures, one cannot accurately compare whether a country, in fact, has increased its level of support from different time periods by just looking at expenditures. We already have discussed all the various factors that influence price movements of cotton over the years, from polyester production, to consumer demand, to all the dramatic things that happened in China, even to the breakup of the Soviet Union which brought massive amounts of cotton onto the world markets in 1993. All these things influence world markets and would have, under this scenario and under the panel's analysis, caused the United States to violate the peace clause if it had never changed its program whatsoever.

Turning to the prohibited subsidy claims: There was the Step 2 challenge, which is a cotton-specific program. The Brazil claim alleged that Step 2 is an export subsidy under Article 3 of the SCM Agreement as well as an impermissible import substitution subsidy. Brazil also alleged that the Export Credit Guarantee Program was a prohibited export subsidy under Article 3 of the SCM Agreement.

I think the professor provided a very good discussion of export credit guarantees. Article 10-2 of the Uruguay Round Agreement on Agriculture provides as follows:

> Members undertake to work toward the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes and after agreement on such disciplines, to provide export credits, export credit guarantees or insurance programmes only in conformity therewith.

The United States has always believed that the Export Credit Guarantee Programs were exempt from disciplines under the Uruguay Round agriculture agreement pursuant to Article 10.2. It states that members undertake to work toward the development of disciplines: essentially we haven't agreed on anything yet, so we agree that we're going to agree in the future.

In the Statement of Administrative Action submitted by the U.S. administration to Congress as an explanation of the WTO agreements, the administration specifically said Export Credit Guarantee Programs were exempt from the discipline commitments. The United States always believed that Export Credit Guarantee Programs were exempt as a result of this seemingly clear statement, that "We haven't agreed; we're going to agree in the future."

This, of course, perfectly explains why the United States, which was conducting Export Credit Guarantee Programs for cotton, for rice, for a variety of commodities in 1994, did not make any attempt to have an export subsidy schedule in place for that program. It didn't think the disciplines were applicable. There, of course, are calculated risks that one takes in these negotiations, given the diplomatic ambiguity of some of the language, but this was not such a calculated risk. This was a position of a country that thought it knew what it was doing in this area, so much so that it even got almost to the brink of reaching an agreement in the OECD on all disciplines on export credit guarantees to carry out the mandate of the agricultural agreement.

Also, there's a strong argument to be made that under item (j) of the illustrative list of export subsidies over in the subsidies code agreement, the GSM program doesn't constitute an export subsidy. It can be argued that the program has not been operating at premium rates that are inadequate to cover the long-term operating costs and losses. I will say that specifically for cotton, over the last ten years the Export Credit Guarantee Program for cotton has operated in the black. It's actually made money for the U.S. government, so it hasn't operated at a loss over that time period. The panel did not look specifically at cotton, and Brazil ultimately managed to get its argument accepted by the panel that it was challenging all commodities under the GSM program and treating it as one large program.

An export credit guarantee program guarantees only that the foreign bank will pay its obligation. The United States ultimately may have to pay in a situation if the foreign bank defaults on its obligation. However, the United States doesn't forgive that debt; it takes that debt and puts it in its list of things that country owes the United States. Many of these ultimately find their way to rescheduling agreements, but, as far as I know, they rarely, if ever, are written off. Right now, I think the last most substantive default was Iraq when Saddam Hussein invaded Kuwait, the United States cut off the program, and he said, "I'm not going to pay you anything," and defaulted. As far as the United States is concerned, Iraq still owes us this money under this program.

The cotton Step 2 program is an interesting argument to make. You've already heard the professor's opinion that it's one of the weaker components of the United States case. The Step 2 program involves payments that are made to enhance competitiveness of U.S. cotton, both in the domestic market and in the international market, and the United States argued that the program provides for one payment to be made on all sales of cotton. A payment made on a sale, according to the U.S. agreement, is not a subsidy contingent on export. It also is not a subsidy contingent on the use of domestic product over an imported product.

Finally, with respect to the serious prejudice position of this case, Brazil essentially focused its proof on showing significant price suppression in the same market. It argued that the panel could use the world market as the *same* market called for in Article 6. The United States disagreed throughout the dispute with this definition of the *same* market. The U.S. argued that what the drafters meant as the *same* market was a specific market where U.S. cotton and Brazilian cotton competed head to head and in which it could be shown that the U.S. program had, in fact, suppressed prices.

Brazil did not want to have to make that showing. It was not going to find very many specific markets where U.S. prices were below Brazilian prices. As a matter of fact, there are virtually no instances of that. Generally, U.S. prices are above Brazilian cotton prices in the world market.

Again, the cause of action here is proving serious prejudice. We've already heard about the marketing loan program, which is a fully coupled program; the Step 2 program, which is linked to price and must have a product to be paid on it, although it's a little further up the marketing chain. All the other programs, generally speaking, that we're talking about here are not linked to production — there's no production required. Mr. Palmeter referenced that one of Brazil's arguments in general is that U.S. production of cotton grew from 1998 to 2001.

U.S. exports of cotton grew pretty remarkably as well, particularly from 2000 to 2001, whereas the farm price for cotton declined. Brazil argued that the opposite should have happened — falling prices should have led to decreased production. I don't know that a declining farm price necessarily would ever lead to declining exports, given that decreasing prices make your product competitive. Still, prices were declining and there was a production increase in 2001. This would seem pretty strongly to make the point that something stinks very badly here. So what's wrong with this picture?

Well, 1998 and 2001 are grotesquely misleading comparisons. 1998 was one of the lowest cotton production years on record in the United States, with record levels of abandonment of cotton, of very, very low yield, and a very low production year; whereas, 2001 was just the opposite, with one of the largest yields on record in the United States and correspondingly very high production. So these differences aren't differences that are reflected by planting. In fact, if you stretch this out a little bit, start in 1999 instead of 1998 and add 2003, there is a different picture. You still see a bump in U.S. cotton production in 2001, but suddenly it's not a trend, it's just a bump in what's happening. If you stretch this on out to 2004, Brazil's production comes up to about 1.4 million metric tons and the United States increased up to about 4, still well below 2001 levels, and China increased to about 6.5 million metric tons, continuing its increased cotton production. Given these historical trends, the panel was supposed to believe that the United States program is driving world cotton prices and causing significant price suppression in the world markets. We don't believe that's the case.

There are other things that are wrong with that picture. Again, as I've indicated, production is not the primary economic driver, planting is the primary economic decision of the producer. When he plants his acreage, what happens to production, as economists say, is largely a function of exogenous factors. The chart of farm prices showing cotton prices declining dramatically ignores the fact that every other major commodity option available to cotton producers in the United States in 2001 had the same price decline. I was talking with an economist today, and other major crops that were viable options to farms in the southern U.S. were all running at about seventy percent of historical price trends in 2001. One other thing to note about 2001 is that the obvious price decline didn't happen at planting time; that price decline happened at harvest time. The real impact from this rolls over into 2002. In fact, if you were going to find the most significant impact to the U.S. cotton program, you would be looking at 2002 because that year follows a harvest season with declining prices. Further, futures prices in 2001 at planting time were above loan rates.

So the picture painted by Brazil simply isn't complete. This also ignores that U.S. acreage response is similar to others. In general, you will find that U.S. cotton acreage goes up and down with the rest of the world. The chart developed by Brazil also fails to explain the real reason for this increase in U.S. export of cotton. There was an increase in exports of United States cotton, and now the United States is the leading exporter of cotton fiber in the world. However, the use of cotton by domestic textile mills dropped by fifty percent over the last three or four years as a result of increases in imported textile products, leaving no place for U.S. cotton to go except the export market.

I don't know how many law students are here, or how many have dealt with the role of economic models in disputes. Mr. Palmeter mentioned Dr. Sumner's economic analysis. Several sets of econometric analysis and econometric models that have been run show single digit impacts from the U.S. cotton program on world prices. But there are three such sets of analysis that show significantly greater impacts, one of which was paid for by Brazil. The other one, ICAC

(International Cotton Advisory Committee), wasn't paid for by anybody. From a point of view of looking at something independent, one would have to say that ICAC would be an independent study. But the United States, of course, has significant problems with the way that particular economic analysis was conducted, which leads me to this point with respect to econometric modeling: Watch Out!

When a country starts bringing up econometric modeling and introduces it into the debate, it may be asking for trouble if the analysis is not presented very carefully. The U.S. web site contains all of the submissions in this dispute by the United States, and it includes many that dealt with the Sumner economic model. Sumner presented his analysis to the panel as if it used an econometric model that was a simple rehash of the well-known FAPRI model and should, therefore, be considered to be valid. However, Dr. Sumner altered many aspects of the FAPRI econometric model before he ran the cotton analysis. In its submissions, the United States found all these alterations and essentially argued that Brazil's expert was misrepresenting what he had done. Econometric models are very complex, very large, and there were plenty of things in there to nitpick if given the opportunity. So, while these types of disputes can turn largely on economic analysis, the lawyer must be very, very careful with how the econometric model is presented. If the model is attacked, the case can get very confusing very quickly.

I'll just leave with this: Brazil also has argued that the United States cotton program caused an increase in the world market share for U.S. cotton. But in fact, clearly the world market share of U.S. cotton has not grown but has pretty much consistently been right around twenty percent for over thirty years, pretty much unchanging. Yes, there has been a shift from domestic consumption to export consumption, particularly in the last five years, particularly as a result of China's growth in textile and apparel markets, but the overall share has hardly moved an inch in all that time period.

The final points I would like to make involve WTO representation. These cases are between governments, and as Mr. Palmeter pointed out, his law firm is not representing the Brazilian government, at least not directly, in this case. The

Brazilian government represents itself in this case, just like the United States represents itself in this case. The U.S. Trade Representative's office functions as the lead counsel and handles what's put forward, what's done, and the way it's argued. Specialized agencies provide assistance. In this case, the U.S. Department of Agriculture provided a wonderful assistance and still does provide wonderful assistance to USTR. There are strict rules of protocol in place and strict rules of confidentiality. I know from my perspective, I wish the United States had not been nearly as concerned as it was over maintaining and adhering to the strict rules of the WTO panel. It wanted very diligently to adhere to the rules of confidentiality. It would not put out anything that was deemed confidential by the panel, no matter what the situation, no matter how much we kicked and screamed about it.

From the private sector viewpoint and looking at it from the United States perspective, our role to some extent must be created, and it must be important to the agencies involved in this case because they're going to have to want to hear from us and want to hear what our opinion is. In the cotton case, there is a single trade association, the National Cotton Council, that's relatively dominant in the field. It's a central organization that represents a lot of sectors of the industry. Therefore, it was not that difficult for the National Cotton Council to step forward and work with USTR. But in other industries and in other areas, you don't have nearly so central a player. This is a joke, so I'll say it straight up: For example, peanut representation in the United States is just a little bit divided between Georgia peanut producers and the Alabama Farmers Federation and others. Don, wouldn't you say there's just a little bit of division in peanut representation? Just a little bit. They can't seem to get together much of the time, so they would have a much harder time facing a challenge like this if they were going to try to go to USTR in a manner that would maximize face time and maximize the impact of what they have to say.

I've gone over my time dramatically, Professor Wilner. I'm sorry.

**Wilner**: I want to thank the panel very much, indeed, for a very clear and thorough discussion of the subject, of this ongoing process, in fact, because we are still awaiting the review panel decision. We've ended the hour, but are there questions and comments on this important aspect of the work of the WTO? In addition to the particular and specific controversy, the work of the panels and the manner in which industry approaches its own governments on behalf of the clients is very important and has been very clearly set out. Are there any questions or comments from members of the group, or has the panel covered the essence of the issues, as I suspect they have? No questions? Well, let me thank the panel again and turn this over to Mr. Johnson to say the last words of the conference.

**D. Johnson**: Let me just thank again the panelists here. I think you all did a wonderful job. I think the lateness of the hour and the breadth with which you covered the subject answers the questions that anybody may have had. You did a wonderful job—let's give them another hand. Thanks for being here.

## Agriculture and the WTO: Subsidies in the Cross Hairs

*Tuesday, November 16, 2004*

**About the Speakers**

**Evandro S. Didonet** has served as Minister-Counselor (Economic Affairs, Trade Policy) for the Embassy of Brazil in Washington since August 2003. After completing a degree in International Relations at the Rio-Branco Institute, Brasilia, Mr. Didonet entered Brazilian Foreign Service in 1979. His previous mission postings abroad include Vienna (1984-86), Beijing (1986-89), Bonn (1989-92), Rome (1995-98), and Deputy Chief of Mission in Ottawa (2001-03). His recent assignments in his home country have been in the Ministry of External Relations in Brasília: Office of the Deputy Minister of External Relations (1993-94 and 1998-2001).

**Cal Dooley** currently is serving his seventh term as a Member of Congress, representing the twentieth District of California. Dooley is a fourth-generation San Joaquin Valley farmer and partner in Dooley Farms of the Hanford-Visalia area. He serves on the House of Representatives Committees on Agriculture and Resources and serves as ranking minority member on the House Agriculture Subcommittee on Department Operations, Oversight, Nutrition, and Forestry. Congressman Dooley is one of the leading House Democrats promoting an aggressive pro-trade agenda to ensure that the U.S. remains a leader in the global marketplace. He has been honored by the Washington International Trade Foundation with their prestigious Distinguished Service Award for his leadership in the House on expanding U.S. access to foreign markets, including China.

**David Frederickson** is president of the National Farmers Union, officially called the Farmers Educational and Cooperative Union of America, which was founded in 1902 in Point, Texas by Newt Gresham. National Farmers Union is a general farm organization with a membership of nearly 250,000 farm and ranch families throughout the United States.

**William A. Gillon** is a partner at Butler, Snow, O'Mara, Stevens & Cannada PLLC in Memphis, Tennessee, and concentrates his practice on agricultural law, international trade, and biotechnology. He is outside counsel for the National

Cotton Council of America, where he served as General Counsel for ten years. Prior to that he was Senior Counsel to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate for four years, which followed four years as an attorney in the Office of the General Counsel of the United States Department of Agriculture. Gillon serves as a member of the Agricultural Technical Advisory Committee for Tobacco, Cotton, Peanuts, and Planting Seeds and an official adviser to the current round of multilateral trade negotiations under the World Trade Organization. He also was an official Congressional Adviser to the Uruguay Round of Multilateral Trade Negotiations and an official adviser to the North American Free Trade Negotiations.

**James D. Grueff** has been the Assistant Deputy Administrator for International Trade Policy at the Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture since September 1998. His primary responsibilities include managing the participation of FAS in the WTO Doha Round negotiations on agriculture, handling various trade issues with the European Union, and working on sugar import policy. Previous to his current position he was the head of the FAS office in Bonn, Germany, from 1994 to 1998. Prior to his assignment in Germany, Mr. Grueff was involved in the WTO Uruguay Round negotiations as the Director of the FAS Multilateral Trade Policy Affairs Division and as the U.S. lead negotiator for the WTO Sanitary and Phytosanitary Agreement. He also has served in the FAS Dairy, Livestock, and Poultry Division in Washington and in the FAS office in Tokyo, Japan.

**Tassos Haniotis** is a member of the Cabinet of Dr. Franz Fischler, the European Commissioner for Agriculture, Rural Development, and Fisheries, during the 2000-2004 period. Deputy Head of the Fischler Cabinet since October 2003, Mr. Haniotis has as main responsibilities the fields of External Relations, Trade, and Enlargement, with the main focus of his activities during this period the agricultural chapter of the Doha WTO Round and the EU-Mercosur negotiations. He joined the European Commission (Directorate General for Agriculture) in 1989 and was responsible for developing medium-term forecasts and quantitative analyses for EU agriculture within DG AGRI (1990-96). He served as the Agricultural Counsellor of the European Commission Delegation in the United States (1996-2000).

**Jon E. Huenemann** is Senior Vice-President of Fleishman-Hillard Government Relations, Inc. Mr. Huenemann leads the Trade, Investment, and Global Markets practice group, providing strategic counsel and representation for clients on trade policy issues. Prior to joining Fleishman Hillard in 2000, Mr. Huenemann spent fifteen years in the Executive Office of the President, where he was the Assistant U.S. Trade Representative for North American Affairs and a member of the Senior Executive Service. He was the chief strategist on Canada, Mexico, and the North American Free Trade Agreement (NAFTA) and managed the trilateral work program. He was Deputy Assistant U.S. Trade Representative for Western Hemisphere Affairs. He led the negotiations on Chile's bid to accede to the NAFTA, managed trade relations with Mexico and the NAFTA, was a senior negotiator on the trade action plan at the first Summit of the Americas, and spearheaded a number of trade negotiations in Latin America. He was the Director for Brazil and Southern Cone Affairs at USTR and a key architect of the trade component of the Enterprise for the Americas Initiative.

**C. Donald Johnson**, former U.S. congressman and ambassador, joined the Dean Rusk Center–International, Comparative, and Graduate Legal Studies in June 2004 as Interim Director. Previously, he specialized in international trade and foreign policy issues as a partner at the law firm of Patton Boggs LLP in Washington, D.C. From 1998-2000, he served as chief textile negotiator in the office of the U.S. Trade Representative. His tenure included the U.S. China WTO agreement, the U.S.-Cambodia Textile Agreement, WTO dispute cases, and the Trade Act of 2000. Johnson previously served as Member of Congress for the 10th District of Georgia, where he concentrated on national security issues on the Armed Services Committee and on international trade, including NAFTA and the WTO implementing legislation.

**Kevin C. Kennedy** teaches International Trade Regulation, International Litigation & Arbitration, NAFTA, Civil Procedure, and Conflict of Laws. Besides publishing several law review articles on international trade regulation, Professor Kennedy has written a monograph, *Competition Law and the World Trade Organization* (Sweet & Maxwell 2001), and is co-author of the treatise, *World Trade Laws* (LEXIS 1998). He is a contributing author and editor of *The First Decade of NAFTA: The Future of Free Trade in North America* (Transnational

Publishers, forthcoming Fall 2004) and a contributing author of chapters on GATT 1994 and special and differential treatment of developing countries in *The World Trade Organization: Legal, Economic and Political Analysis* (Kluwer Publishing, forthcoming Fall 2004). In addition to his teaching and scholarship, Professor Kennedy serves as a NAFTA Chapter 19 binational dispute settlement panelist.

**David Palmeter** is a partner in the Washington, D.C., offices of Sidley Austin Brown & Wood LLP, where he advises governments and interested private parties in dispute settlement proceedings in the WTO. He was involved in WTO dispute settlement from the very start of the organization, advising Singapore in the first WTO dispute. He next advised the Government of Brazil and a Brazilian oil company in the first case to reach a formal decision. He since has represented numerous governments and private parties in major WTO cases involving antidumping, subsidies, government procurement, and agriculture agreements. From 1994 to 1998, Mr. Palmeter was the International Bar Association Antitrust and Trade Law Committee's Liaison to GATT, the WTO, and the United Nations Committee for Trade and Development. He is co-author of the leading text in the field of WTO dispute settlement, the second edition of which was published in 2004 by Cambridge University Press.

**Robert N. Shulstad** is Assistant Dean for Research and Director of Environmental Sciences in the College of Agricultural and Environmental Sciences. He joined the University of Georgia as division Chair and Head of the Department of Agricultural and Applied Economics where he taught Applied Microeconomic Theory, Agribusiness Finance, and Rural Land Appraisal. In 1999, the College of Agricultural and Environmental Sciences named him Coordinator for Environmental Sciences. From 1999 to 2002 he provided leadership for four major Symposiums on the Future of American Agriculture. He also has served as editor of the *Southern Journal of Agricultural Economics*, board member for the Southern and National Associations of Agricultural Economics Department Heads, the Georgia Agribusiness Council, and the Council for Environmental Deans and Directors.

**Bob Stallman**, a rice and cattle producer from Columbus, Texas, is serving his third term as president of the American Farm Bureau Federation, the nation's largest and most influential general farm organization. The eleventh president in the organization's eighty-five-year history, Mr. Stallman was first elected president on January 13, 2000 and is the first AFBF president to hail from the Lone Star State. Mr. Stallman began a two-year term in June 2001 on the Advisory Committee on International Economic Policy (ACIEP), the State Department's principal advisory panel regarding international economic issues. In Spring 2001, he began serving on the board of trustees for the Farm Foundation, a nonprofit organization that improves the well-being of U.S. agriculture and rural people. In addition, he serves on the Advisory Board of the World Agricultural Forum, an independent organization that encourages open debate and discussion of international food, fiber, and fuel issues.

**Gabriel M. Wilner**, Charles H. Kirbo Professor of International Law, is Associate Dean and Executive Director of the Dean Rusk Center—International, Comparative, and Graduate Legal Studies at the University of Georgia School of Law, and he serves as the Director of the Graduate Legal Studies program. Professor Wilner specializes in international law, international legal transactions, and law of the European Union. He also directs the Brussels Seminar on the Law and Institutions of the European Community and Union. He has been legal adviser and consultant to various United Nations institutions and to African and Asian regional institutions, arbitrator in transnational disputes, and was a drafter of the 1988 Georgia Arbitration Code. Professor Wilner practiced law in Brussels, Belgium, was director of studies at the Hague Academy of International Law, and worked in the legal affairs office of the United Nations. He also has taught as a visiting professor at a number of European and U.S. law schools.

ag:  agriculture
BSE:  bovine spongiform encephalopathy
CAFTA:  Central American Free Trade Agreement
CAP:  Common Agricultural Policy
DG Agriculture:  European Commission Director General for Agriculture
EC:  European Commission
EU:  European Union
EU 25:  European Union twenty-five member states
FAPRI:  Food and Agricultural Policy Research Institute
FAS:  Foreign Agricultural Service
GATT:  General Agreement on Tariffs and Trade
G-20:  Group of Twenty
GDP:  gross domestic product
GSM-102:  Export Credit Guarantee Program
ICAC:  International Cotton Advisory Committee
IP:  intellectual property
MERCOSUR:  Mercado Commun del Sur (Southern Cone Common Market)
NAFTA:  North American Free Trade Agreement
NGO:  non-governmental organizations (UN)
S&D:  special and differential treatment
SCM Agreement:  Uruguay Round Subsidies and Countervailing Measures Agreement
TPA:  Trade Promotion Authority or Fast Track
UGA:  University of Georgia
USDA:  United States Department of Agriculture
USITC:  United States International Trade Commission
USTR:  United States Trade Representative
WTO:  World Trade Organization

Agreement on Agriculture (Uruguay Round)
(WTO) Appellate Body
(WTO) Appellate Body report
Blair House accord
(WTO) Dispute Settlement Understanding
Doha Development Agenda
Doha Ministerial Conference
Doha Ministerial Declaration
Doha round
least-developed countries
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