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US AGRICULTURE POLICY AND THE URUGUAY ROUND: IMLICATIONS FOR FOOD SECURITY AND GLOBAL DEMOCRACY

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US AGRICULTURE POLICY AND THE URUGUAY ROUND: IMPLICATIONS FOR FOOD SECURITY AND GLOBAL DEMOCRACY

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The original U.S. proposal for the agriculture negotiations of the Uruguay Round was drafted by Daniel Amstutz, a life-time executive officer of the Cargill Corporation.[1] Cargill is the largest grain trading corporation in the world with 700 facilities in an estimated 48 countries,[2] and it did well in these negotiations. The final Agriculture Agreement of the Uruguay Round succeeds in widening markets throughout the world for Cargill and other transnational agribusiness corporations while effectively limiting the access of producers and smaller exporting companies to the global marketplace -- despite the goals originally expressed in Punta del Este, Uruguay in 1986.

A Brief History of U.S. Farm Policy

Since the 1950s, the largest corporations in the food industry have dominated U.S. agriculture policy, both domestic and international. Advisory committees packed with more than 825 representatives from the business community provide counsel to the U.S. Trade Representative regularly.[3] As agribusiness interests were accommodated, farmers' interests were sacrificed. The same pattern holds true worldwide, as industrial agriculture for commercial production and trade displaces traditional community-based systems of food and fiber production.

In the process of industrializing agriculture, many costs are externalized: the social costs of disrupting rural community life and increasing dependency, the environmental costs of chemical- and machinery-based technologies and of the increased transport involved in large scale monocultural production for broad distribution or export, and the real costs of exporting raw commodities priced in a devalued currency and importing processed foods priced in a relatively

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1 Resume of Daniel Amstutz.
2 Krebs, A.V. *The Corporate Reapers: The Book of Agribusiness.* Essential Books: 1992.
3 Hilliard, Tom. "Trade Advisory Committes: Privleged Access For Polluters." Public Citizen's Congress Watch. December 1991.

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overvalued currency. As *The Ecologist* put it in their report on the politics of industrial agriculture, "A food system which makes highly processed food cheap, and fresh food expensive, is not in the interests of producers or consumers; it contributes to the problem and costs of ill health, and benefits only the food industry."[4]

Prior to the 1950s, U.S. agriculture was organized around the principle of full cost accounting, called "parity" by the farm movement.[5] After the devastating "Dust Bowl" of the 1930s -- the ecological manifestation of the economic impacts of the Great Depression[6], President Roosevelt established the Commodity Credit Corporation (CCC), a "non-recourse" loan program which forced the grain companies and other food manufacturers and exporters to pay farmers a minimum price in the marketplace. When the market price fell below "parity," a price calculated to rise and fall along with farm costs, participating farmers could take out a government loan worth up to 90 percent of the parity price and withhold their crops until later in the year when prices would usually rise due to the witholding. If prices remained low, the farmer could keep the loan and the government kept the crop. The program was highly successful: throughout that 20-year period, farmers received payment for their crops worth 98.2 percent of the parity price -- 99 percent of it through the marketplace -- and most loans were repaid with interest.[7] In fact, the federal government had actually made a $13 million profit over those 20 years by selling the stocks that it had retained.[8]

Roosevelt's New Deal farm programs included two other important elements: price ceilings to protect consumers and inventory control programs that included regulation of imports and domestic supply management through production controls. These programs became law in the Soil Conservation and Domestic Allotment Act of 1936 and the Agricultural Adjustment Act of 1933. By the late 1940s, the New Deal -- which also generated publicly-sponsored industrial jobs through the National Recovery Act and many other social programs -- came under attack as socialist, centralized planning, and even "Bolshevik."[9]

During Dwight Eisenhower's presidency, agribusiness continued to lobby against federal price supports, purportedly "because of their dangers to democratic government and free competitive

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4 *Another Day Older and Deeper in Debt: The Politics of Industrial Agriculture.* The Ecologist.
5 Shover, John L. "Populism in the 1930s: The Battle for the Agricultural Adjustment Act." Presentation to the Pacific Coast Branch, American Historical Association at UCLA. August 26, 1964.
6 Worster, Donald. *Dust Bowl: The Southern Plains in the 1930s.* Oxford University Press, New York. 1979.
7 *Parity: An American Farm Program That Works.* The U.S. Farmers Association. Hampton, Iowa. 1978.
8 Krebs, A.V. *The Corporate Reapers: The Book of Agribusiness.* Essential Books: 1992.
9 Ritchie, Mark. "High on the Corporate Hog: Farm Subsidies or Agri-Business Subsidies?" Institute for Agriculture and Trade Policy. June 1995.

enterprise" but in fact to lower their own costs of purchasing from farmers the raw materials of the food trade. And sure enough, the U.S. Congress adopted much of Eisenhower's proposals, gradually lowering price supports and initiating the process of delinking farm prices from the full cost of production. From 1955-1977, farmers were paid an average of just 75 percent of parity.[10]

Indeed, the phrase "agribusiness" was coined by John H. Davis, President Eisenhower's first Assistant Secretary of Agriculture in charge of price supports and marketing -- who later moved to head up a Harvard Business School project endowed by the Corn Products Refining Corporation (now CPC International.) In a 1956 issue of the *Harvard Business Review*, Davis wrote, "In the dynamic era ahead the term 'farm problem' will become more and more a misnomer; farm problems will be recognized as being also business problems and vice versa. More precisely, farm problems will be agribusiness problems."[11]

For agribusiness, the problem became one of a "persistent excess of resources, particularly labor."[12] A committee of university presidents, economists, and corporate executives -- from Heinz and Hormel, Ford and General Motors, American Telephone and Telegraph, IBM, and the King Ranch, to name just a few -- declared that the "movement of people from agriculture has not been fast enough to take full advantage of the opportunities that improving farm technologies, thus increasing capital, create." Formed in 1942 to help plan the post-war transition and how to deal with the anticipated mass unemployment, this Committee for Economic Development (CED) advised the White House on economic planning for several decades.[13]

In 1962, the CED recommended "moving off the farm about two million of the present farm labor force, plus a number equal to a large part of the new entrants who would otherwise join the farm labor force." Kenneth Boulding, a prominent agricultural economist from the University of Michigan, quoted in *American Agriculture News*, described their plan bluntly: "The only way I know to get toothpaste out of a tube is to squeeze, and the only way to get people out of agriculture is likewise to squeeze agriculture. If the toothpaste is thin, you don't have to squeeze very hard, on the other hand, if the toothpaste is thick, you have to put real pressure on it. If you can't get people

[10] Krebs, A.V. *The Corporate Reapers: The Book of Agribusiness.* Essential Books: 1992.
[11] McCune, Wesley. *Who's Behind Our Farm Policy?* Frederic A. Praeger, New York. 1956.
[12] "An Adaptive Program for Agriculture." Committee for Economic Development. 1962.
[13] Ritchie, Mark. "The Loss of Our Family Farms: Inevitable Results or Conscious Policies?" *Center for Rural Studies.* 1981.

out of agriculture easily, you are going to have to do farmers severe injustice in order to solve the problem of allocation."[14]

Throughout the 1960s, they squeezed. The U.S. Congress enacted farm legislation that continually shifted the percentage of farm income derived from supported market prices to various forms of government payments to farmers, often in conjunction with programs intended to reduce surpluses by removing land from production.[15]

By the time Richard Nixon became President, the United States faced its first trade deficit in 125 years. With the advice of Cargill and other grain corporations, Nixon tried to rebalance U.S. trade by significantly increasing agricultural exports -- not only by devaluing the dollar after decoupling it from the gold standard (as described earlier in this book) but also, so that the grain exporters could offer more competitively priced products in the world market, by forcing farm prices still lower.[16]

The shock to rural America, however, forced the Congress at that time to negotiate a politically-acceptable compromise: taxpayers would offer farmers a "deficiency payment" to partially compensate for the lower prices. "It was a cunning policy," explains Mark Ritchie, director of the Institute for Agriculture and Trade Policy, "because these payments appeared to be direct subsidies to farmers; but the purpose of the payments was to support farmers who were selling their crops to corporations at prices far below the costs of production, which in fact meant that the real subsidies were going to agribusiness. It was," he concludes, "in essence, a money-laundering scheme."[17]

Since then, the Congress has periodically set a "target price" slightly above what the grain corporations are willing to pay farmers in the market -- usually about half to two-thirds of the cost of production, not counting externalized environmental costs. In order for some farmers to survive, the federal government then sends a check to those farmers who will follow a number of

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14 Ritchie, Mark. "The Loss of Our Family Farms: Inevitable Results or Conscious Policies?" *Center for Rural Studies.* 1981.

15 *History of Agricultural Price-Support and Adjustment Programs, 1933-84: Background for 1985 Farm Legislation.* United States Department of Agriculture Economic Research Service. Agriculture Information Bulletin Number 485. December 1984.

16 Krebs, A. V. "Cargill: In the Beginning it BeGATT." *The Agribusiness Examiner.* PrairieFire Rural Action. September-October 1994.

17 Ritchie, Mark. "Free Trade versus Sustaiable Agriculture: The Implications of NAFTA." *The Ecologist.* Volume 22, Number 5. September/October 1992.

Deparment of Agriculture rules, to cover the difference between the low market price and the legislated target price; the checks are called "deficiency payments."[18]

Of course, farmers have to cover the rest of the balance -- that is, the difference between the real cost of production and the target price -- on their own. Many depended upon the federal farm loan system and private bank loans; when interest rates soared in the 1980s, many thousands went bankrupt.[19] Others were forced to externalize more and more of the real costs of production -- by planting on marginal lands, abusing their own health, and shirking other expenses in the family budget. By the end of the decade, agribusiness policymakers had succeeded in reducing farm prices in the U.S. to about 55 percent of parity, squeezing more than 3 to 4 million U.S. farm families off their land and into the cities.[20]

Dumping, Food Aid, and Market Expansion

The practice of selling cheap products abroad at prices below the cost of production is called "dumping." Agricultural dumping has made it impossible for many Third World producers to thrive, even in their national markets.[21] In conjunction with export-oriented conditionalities of structural adjustment imposed by the IMF and World Bank, which have obliged many governments to convert their domestic food production to agro-industrial commodity crops in order to generate foreign exchange with which to pay their debts, dumping has made developing countries generally dependent upon food imports -- and extremely vulnerable to fluctuating prices in the world marketplace.[22]

Since Bretton Woods, dumping has been considered illegal. Article VI of the original GATT agreement defines and condemns dumping, as seen in the text below. Article XI in the original GATT text permits governments to adopt domestic supply management, even allowing restrictions on imports that might favor domestic producers, in order to control production levels and avoid the temptation to export surpluses and to relieve "critical shortages of foodstuffs."[23]

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18 Ritchie, Mark. "High on the Corporate Hog: Farm Subsidies or Agri-Business Subsidies?" Institute for Agriculture and Trade Policy. June 1995.
19 Robbins, William. "The debt crisis eases for some in farm belt." *Des Moines Sunday Register.* January 3, 1988.
20 National Farmers Union. "Implications of Decoupling." January 1989.
21 Watkins, Kevin. "Agriculture and Food Security in the GATT Uruguay Round." *Review of African Political Economy.* ROAPE Publications 1991.
22 McMichael, Philip. "World food system restructuring under a GATT regime." *Political Geography.* Volume 12, Number 3. May 1993.
23 *General Agreement on Tariffs and Trade.* Revised 1969. Article 11.2.

GATT ARTICLE VI, Paragraphs 1 and 2: Anti-dumping and Countervailing Duties:

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. For purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value if the price of the product exported from one country to another

(a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,

(b) in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export ot any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

Due difference shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping inr espect of such product. For the purposes of this Article, the mafgin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

-- *General Agreement on Tariffs and Trade*. 1969.

From the beginning, some countries negotiated exceptions to the rules based on the "Protocol of Provisional Acceptance," the flexibility clause designed to encourage them to join the GATT agreement by excluding pre-existing national law from its terms.[24] In 1955, the U.S. used this clause to negotiate a permanent waiver from the GATT Council for its domestic agriculture policy.[25]

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24 Raghavan, Chakravarthi. *Recolonization: GATT, the Uruguay Round and the Third World.* Third World Network. Penang, Malaysia. 1990.

25 Porter, Jane M. and Douglas E. Bowers. *A Short History of U.S. Agricultural Trade Negotiations*. Economic Research Service, United States Department of Agriculture. Washington DC. August 1989.

In the ensuing decades, the impact of agricultural surpluses and falling farm prices in the United States rippled throughout the world. Because of the dominant market position of U.S. food industry, the U.S. target price becomes a virtual ceiling in the global marketplace.[26] Agribusiness enjoyed low raw materials prices worldwide and cheap U.S. grains flooded marketplaces throughout the world. By 1986, world cereal reserves, held mainly by the U.S. and Europe, reached 316 million tons -- equivalent to one-quarter of annual global consumption or 2.5 times annual world trade.[27]

In 1954, U.S. Public Law 480 (the Agriculture Trade Development and Assistance Act) was enacted to dispose of U.S. surpluses abroad. The law created an authority for selling surplus commodities for foreign currency, instituted emergency shipping for hunger relief, and to barter farm products for strategic material.[28] Billed as a humanitarian effort, this so-called "Food Aid" was little more than an instrument of foreign policy created to strengthen U.S. exports by literally dumping agricultural surpluses on foreign markets.

Research by the Institute for Food and Development Policy, better known as "Food First" in California, shows that the major benefactors of the below cost sales are the large grain companies which captured markets from peasants, who experienced "price slumps, stunted development, and decreased production" as a result of the impossible competition. Criticized by a wider range of social and economic justice organizations from around the world, Food Aid experienced a period of reform culminating in the 1990 Farm Bill, which moved food distribution from the hands of the government to those of private voluntary organizations and NGOs. Though the Food Aid program has increased its efficiency and distribution, it continues to further U.S. agribusiness interests.[29]

For their part, the Europeans established their Common Agriculture Policy (CAP) in the early 1960s. Part of the Common Market established by the Treaty of Rome, the Common Agriculture Policy has never been approved by the GATT Council -- but neither was it disapproved.[30] With a

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[26] "Industrialized Country Farm Prices: Who is Dumping?" *GATT Briefing on Agriculture, Food Security and the Uruguay Round.* European NGO Network on Agriculture and Development (RONGEAD). Number 4. November 1990.

[27] Watkins, Kevin. "Agriculture and Food Security in the GATT Uruguay Round." *Review of African Political Economy.* Number 50:38-50. ROAPE Publications Ltd. 1991.

[28] *History of Agricultural Price-Support and Adjustment Programs, 1933-84: Background for 1985 Farm Legislation.* United States Department of Agriculture Economic Research Service. Agriculture Information Bulletin Number 485. December 1984.

[29] "The History of Food Aid." Institute for Food and Development Policy *Food First Publication* Winter, 1995.

[30] Raghavan, Chakravarthi. *Recolonization: GATT, the Uruguay Round and the Third World.* Third World Network. Penang, Malaysia. 1990.

Common External Tariff and policies gradually eliminating internal barriers to trade, many European countries became agriculturally self-sufficient by 1968 and surpluses began to accumulate there, too.[31] The CAP featured a two-tier price system: a higher price in the internal market protected by a "variable levy" to discourage cheaper imports and another with which to expand their overseas markets.[32]

Throughout the 1970s, both U.S. and European exporters enjoyed expanding markets in the Third World where demand was spurred by a flood of petrodollars[33] and the two competed intensely. Between 1978 and 1981, there were as many unfair trade complaints filed at the GATT than in the prior 30 years altogether.[34] In the early 1980s, the Europeans gained against U.S. exporters thanks to the Reagan dollar which reached an all-time high in 1985. When the value of the dollar fell shortly thereafter, the U.S. exporters enjoyed a boost in their competitive position.[35]

In 1985, the U.S. Congress created a new subsidy for U.S. agribusiness paid by the taxpayers. Under the Food Security Act, the new Export Enhancement Program would bring the price of certain exports further below the already low world price -- ostensibly to offset the "unfair practices" of European rivals.[36] Also in 1985, Congress further reduced farm prices, setting some at levels roughly half the cost of production. Minnesota's Senator Rudi Boschwitz stated clearly that the objective was predatory. "If we do not lower our farm prices to discourage these developing countries from aiming at self-reliance now," he told the other members of the U.S. Senate, "our world-wide competitive position will continue to slide."[37] By 1989 there were only 20 corporations in the world controlling 94 percent of food trade. The U.S. share of the world grain market went front 40 percent in 1970 to about 70 percent in 1980.[38]

All of this dumping became legal with the conclusion of the Uruguay Round negotiations of the GATT. Under the new agreement signed in April 1994, countries are obliged over a period of eix

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[31] Porter, Jane M. and Douglas E. Bowers. *A Short History of U.S. Agricultural Trade Negotiations*. Economic Research Service, United States Department of Agriculture. Washington DC. August 1989.
[32] McMichael, Philip. "World food system restructuring under a GATT regime." *Political Geography*. Volume 12, Number 3. May 1993.
[33] Porter, Jane M. and Douglas E. Bowers. *A Short History of U.S. Agricultural Trade Negotiations*. Economic Research Service, United States Department of Agriculture. Washington DC. August 1989.
[34] Hudec Robert. "A Statistical Profile of GATT Disclosure Settlement Cases" *Minnesota Journal of Global Trade*. Vol.2, 1993.
[35] Ames, G.C.W. "U.S.-EC Agricultural Policies and the GATT Negotiations." Agribusiness. Volume 6, Number 4. 1990.
[36] U.S. Congress."Agricultural Progress in the Third World and its Effect on U.S. Farm Exports." Congressional Budget Office. Washington D.C. 1989.
[37] Boschwitz, Rudy. "Letter to the Editor." *Time*. March 18, 1985.
[38] Krebs, A.V. *The Corporate Reapers: The Book of Agribusiness*. Essential Books: 1992.

years to "phase-out" export subsidies by 21 percent in volume and 36 percent in monetary terms from the 1986-90 base period.[39] But, as Indian farm advocate Vandana Shiva explains, "This is not a removal of subsidies. It is a perpetuation of subsidies."[40]

In other words, governments may now plan permanently to spend as much as 64 percent of their prior outlay to dump as much as 79 percent of the vast tonnage of discounted foods already disrupting the world marketplace and small farming communities throughout the Third World. Indeed, the U.S. Department of Agriculture released a new "Long-Term Agricultural Trade Strategy" in October 1995 that reveals its plans to increase farm exports by 50 percent before the year 2000, primarily by increasing promotions and reducing "unfair" trade barriers.[41]

The Uruguay Round does not help farmers anywhere, even in the North. The agriculture agreement requires a 20 percent reduction in each industrialized nation's support for domestic producers over six years: 13.3 percent over 10 years for developing countries. All government farm programs are to be added up as a single monetary value, called the "Aggregate Measure of Support" (AMS), summing up that country's annual budgetary outlay to support agricultural producers with certain exceptions.[42] In the U.S., agribusiness and its friends in the Congress have used the commitment to phase down the AMS to demand cutbacks in several support programs that encourage conservation, wetlands protection, and other environmentally-friendly practices on the farm.[43]

In some ways, the AMS is a classic "economic instrument." It obliges policymakers to monetize services like environmental protection and then, calling it a subsidy, pretend that its reduction will have a positive result. But, as Shiva points out, because the AMS is literally an "aggregate measure, "Northern countries can actually increase subsidies n specific items in which they have a

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39 *Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations.* Multilateral Trade Negotiations, The Uruguay Round.GATT Secretariat. Gevena, Switzerland. Special Distribution. 15 December 1993.

40 Shiva, Vandana. "Indian government fails to protect national interests: GATT Treaty will hurt farmers, but profit agribusiness." *Third World Resurgence.* Third World Network. Penang, Malaysia. Issue Number 41. January 1994.

41 "Farm Scene." Associated Press. October 26, 1995.

42 *Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations.* Multilateral Trade Negotiations, The Uruguay Round.GATT Secretariat. Gevena, Switzerland. Special Distribution. 15 December 1993.

43 "Study Points to Conservation Reserve Program 'Land Grab'." Campaign for Sustainable Agriculture. September 28, 1995.

comparative advantage, if they reduce it enough in commodities where they are the monopoly suppliers and do not need to be competitive in order to get markets -- such as foodgrains."[44]

The U.S. Department of Agriculture frankly acknowledged in its summary of the agreement that, "No changes would be required in U.S. policies to meet a cut in total internal support of 20 percent over 6 years... Both U.S.deficiency payments and the [European Union's] direct payments under its Common Agricultural Policy (CAP) would be exempt from reduction commitments"[45] thanks to language negotiated among these two major players exempting income support for farmers if that support is de-linked from production.[46]

This results in the US, and indeed, throughout the world, strikingly resemble developments in the ancient Roman Empire more than a thousand years ago. This description comes from a booklet, 'Grain through the Ages,' published in 1927 by the Quaker Oats Company, one of the bigger grain traders:

> "One reason for the decline of grain farming in Italy was the importation of grain into Rome from the rich grain lands of Sicily and Egypt. In Sicily these grain lands had been appropriated by rich men and scheming politicians who farmed them with slave labour. As a result the markets of Rome were flooded with cheap grain. Grain became so cheap that the farmers who still owned small pieces of land could not get enough money for the grain they raised to support their families and pay their taxes. They were forced to turn their farms over to rich landowners. On the land of Italy, slave gangs worked under overseers and took the place of the old Roman farmers, the very backbone of the state. The farmers, after their land had been lost, went into the city walls, leaving the scythe and the plough. They worked now and then at a small wage. They ate mostly bread made of wheat which was distributed to them by any politician who wanted their votes at an election. They lived in great lodging houses, three or four stories high. The land itself became poor. The use of slaves meant that the land was badly worked because the slaves did as little as they possibly could unless they were under the eye of the overseer."

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44 Shiva, Vandana. "Indian government fails to protect national interests: GATT Treaty will hurt farmers, but profit agribusiness." *Third World Resurgence.* Third World Network. Penang, Malaysia. Issue Number 41. January 1994.
45 U.S. Department of Agriculture. *The Uruguay Round and U.S. Agriculture.* Washington DC. December 17, 1994.
46 *Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations.* Multilateral Trade Negotiations, The Uruguay Round.GATT Secretariat. Gevena, Switzerland. Special Distribution. 15 December 1993.

In short, reducing farm support through the AMS was supposed to mollify Third World producers demanding access to markets within the U.S. and Europe. But in fact, as a result of the Uruguay Round, the major agricultural corporations have permission to continue dumping while taxpayers worldwide are supposed to take on the responsibility of assisting otherwise impoverished farmers with welfare payments or "the dole" -- harming not only farmers of the North and South, but also consumers and the environment.[47] Of course, U.S. and European taxpayers are increasingly reluctant to pay these costs while, in most cases, developing countries cannot even contemplate such a subsidy.

The Uruguay Round agreement commits the parties to a "peace clause" for the six years of the "phase-out" period, meaning all other governments agreed not to challenge the implementation of these terms for the duration. It remains to be seen how producers worldwide and their governments prepare for the end of the peace clause in the year 2000.

Under GATT Article VI, a government that was found to be injured by the dumping of overly-cheap goods can offset the economic damage by charging countervailing duties on them at the border. But anti-dumping duties on agricultural products have never been assessed -- in part because the Protocol for Provisional Acceptance permitted countries to continue pre-GATT policies and in part because the governments often benefited from the opportunity to distribute cheap foods while the actual injured parties were peasants with little political clout. The GATT's provisions for "anti-dumping" have been widely applied in disputes over trade in industrial goods.

U.S. anti-dumping law dates back to 1916 and has been used most frequently by the domestic steel industry to protect itself against imports, in many cases more cheaply produced by lower-wage workers. Because a petition for an anti-dumping investigation is initiated by the concerned private industry, usually one with strong political constituencies, there is a strong incentive for the government to find both price discrimination and injury to the industry and order the imposition of anti-dumping duties.[48]

Calculation of the duty is then the discretionary task of a government agency; in the case of the U.S., it is the Department of Commerce which monetizes the extent of the injury. There are numerous subjective judgements to be made. For example, at times the agency must compare prices for "such and similar" products between countries that are not identical; at times it must

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[47] National Farmers Union. "Implications of Decoupling." January 1989.
[48] Lipstein, Robert A. "It's Time to Dump the Dumping Laws." *International Economic Insights*. Institute for International Economics. Washington DC: November/December 1993.

adjust costs to accommodate the "level of trade" as the dumped product affects, for example, a manufacturer differently than a distributor of the same product; at times the agency assumes a requisite "rate of return" -- in the case of the U.S., 18.8 percent is added -- over and above the real costs of production as integral to the domestic price.[49]

Other factors, too will alter the calculation of injury as well as the impact of anti-dumping duties: volatile exchange rates in particular.[50] Depreciation of the U.S. dollar in the past decade has greatly affected prices in relative terms, with differing impacts. France and other European countries, for example, view the depreciating dollar as predatory, in that it makes dollar-denominated competing U.S. products lower priced. Japan, on the other hand, has increased its competitivity relative to the U.S. because the price of oil, which is generally purchased with dollars, has gone down; Japan has reduced its oil expenses by half since 1985. Oil exporters, on the other hand, have lost significant revenues.[51]

The U.S. codified its right to determine unilaterally when other countries have dumped goods with the passage of Section 301 of the Trade Act of 1974. This law and subsequent amendments, especially the infamous "Super 301" in the Omnibus Trade and Competitiveness Act of 1988, create "a domestic legal mechanism whereby the United States can act unilaterally against foreign trade practices," explains analyst Donna Vogt of the Congressional Research Service at the U.S. Library of Congress. In fact, she notes, under Super 301 a trade practice "can be defined as unfair even if it doesn't violate a trade agreement but is considered otherwise unfair and inequitable ... and a burden to U.S. commerce."[52] It enables domestic producers to petition the U.S. Trade Representative about the "unfair practices" of other countries; if the Trade Representative agrees, retaliatory actions can be taken against the foreign countries' exports without waiting for a judgement from a GATT dispute panel.[53]

Developing countries and their advocates object to the United States' 301 laws, seeing them as did the U.S. Trade Representative during the Bush Administration, Carla Hills, who acknowledged

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49 *ibid.*

50 Stewart, Terence P. "The Important Function of Antidumping Laws." *International Economic Insights.* Institute for International Economics. Washington DC. November/December 1993.

51 Wanzenberg, Brad. "Reducing the External Imbalance: The Limits of Dollar Depreciation as a Policy Tool." *Swords and Plowshares: A Chronicle of International Affairs.* Volume 3, Number 1. American University. Washington DC. Fall 1993.

52 Vogt, Donna U. *Addressing Unfair Trade: Agricultural Cases Under section 301 of the Trade Act of 1974.* CRS Report for Congress. Congressional Research Service, the Library of Congress. September 11, 1989.

53 Raghavan, Chakravarthi. *Recolonization: GATT, the Uruguay Round and the Third World.* Third World Network. Penang, Malaysia. 1990.

using a "crowbar" to pry open markets of interest to the United States.[54] Only "multilateral treaties with wide if not universal participation, and signifying a global consensus, should be able to restrict or prohibit processes that have negative effects on the world's environment," countered a representative of Third World Network in news analyses of the pre-negotiation bargaining for greening the GATT. "...the trade option as a way of enforcement should be the exception rather than the rule."[55]

In 1990, the former European Agricultural Commissioner wrote the Director General of the GATT a letter intended to move the stalemated negotiations forward with recommendations for "clear, fair rules of global trade ...to maintain peaceful relations among nations." Among his recommendations, Sicco Mansholt commented that most of the proposals for converting all farm support to a single monetary value, the Aggregate Measures of Support, were based on the idea that the world price was an appropriate reference point to which all countries should strive to reduce their domestic prices; therefore, he wrote, the AMS "may be in violation of GATT anti-dumping rules if world prices are below the cost of production."[56]

Indeed, until 1996, world prices were consistently well below the cost of production, due in large part to U.S. subsidies of agribusiness exporters. Suddenly this year, however, prices for wheat and corn have doubled as available stocks have fallen to post-World War II record lows; some analysts predict the U.S. may run out of corn entirely before the fall harvest. The liquidiation of grain reserves in recent years, consistent with market-oriented food policies, have eliminated buffer stocks which could have helped stabilize global prices, despite the season's severe droughts, cases of diseased crops, and other disturbances in production.[57]

Furthermore, unpredicted changes in patterns of food trade caused by the Uruguay Round, NAFTA, and other recent policies have created food-deficit regions where farmers previously could accommodate local needs. Mexico, for example, produced 2.5 million tons less corn in 1995 than in 1994, assuming that imports from the U.S. would be cheaper and more efficient than

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[54] Raghavan, Charkravarthi. "Trade: Janus-faced U.S. trade policy." *SUNS South-North Development Monitor.* Number 3239. February 18, 1994.

[55] Third World Network. "Trade: Environment debate hotting up?" *SUNS South-North Development Monitor.* Number 3227. February 2, 1994.

[56] Letter from S. Mansholt, former European Agricultural Commissioner to Mr. Dunkel, Director General of the GATT. Published in "Gentle Trade," *GATT Briefing on the GATT, Uruguay Round, and Agriculture.* Number 1.European NGO Network on Agriculture and Development (RONGEAD.) Lyon, France. June 1990.

[57] Ritchie, Mark. "The looming food crisis." *Journal of Commerce.* May 10, 1996.

domestic production, according to the theory of "comparative advantage."[58] But with the 1994 devaluation of the peso, this theory proved false. Mexico had to import 2.5 million tons of higher priced corn from the U.S. In 1996, this demand is expected to grow to 4 million tons. Because the U.S. fulfills grain exports to Europe and Japan first, Mexico faces the threat of widespread hunger if the U.S. cannot meet its commitments.[59]

Food Safety and Democratization

The Organization for Economic Cooperation and Development is promoting "harmonization," the idea global standard-setting bodies should dictate food safety and other regulatory policies to which WTO member national governments should conform.[60] Unfortunately, global institutions have evolved faster than civil society has been able to articulate and implement participatory democratic structures of global governance. As a result, many global institutions are undemocratic -- even worse, they are captured by commercial interests whose goals are precisely the externalization of costs in order to gain competitive advantage.

Even the mission of the Codex Alimentarious Commission, an agency of the U.N. Food and Agriculture Organization and the World Health Organization, is to harmonize international standards for the explicit purpose of facilitating food trade.[61] Codex is tied closely to transnational food corporations. Upon its founding in the 1962, the U.S. food industry financed the U.S. government's participation in Codex. In 1989, the official U.S. delegation to Codex Alimentarious in 1989 included three executives of the Nestle Corporation, and one each from Coca Cola, Pepsi, Hershey, CPC International, Ralston Purina, and Kraft -- as well as representatives of the Grocery Manufacturers of America, the Food Marketing Institute, the American Frozen Food Institute, the Food Processors Association, and the Association of Cereal Chemists.[62] Half of the official delegates on both the U.S. and the United Kingdom delegations at that year's Nutrition Committee meeting were corporate officials.[63]

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58 *Appendini, Kirsten.* De la milpa a los tortibonos: La restructuracion de la politica alimentaria en Mexico. El Colegio de Mexico/United Nations Research Isntitute for Social Development. 1992.

59 Suppan, Steve. "Mexican Corn, NAFTA and Hunger. Sustainable Food Security Fact Sheet Number 3. Institute for Agriculture and Trade Policy. Minneapolis, Minnesota. May 1996.

60 Campbell, Laura B. *International Environmental Standards: Their Role in Mutual Recognition of Ecolabelling Schemes.*. Prepared for the OECD Workshop on Ecolabelling and International Trade. United Nations Environment Programme. October 6-7, 1994.

61 Lang, Tim. "Codex Alimentarious Commission: The Consumer Challenge." Presented at the International Organization of Consumers Unions, February 1994.

62 "U.S. Delegation to Codex Alimentarious," Appendix to "Trading Away Our Environment: Global 'Harmonization' of Pesticide Laws and other Environmental Regulations at GATT," by Mark Ritchie. (Institute for Agriculture and Trade Policy and the National Toxics Campaign Fund, May 1990.)

63 Tim Lang and Mike Rayner, "Meeting About Codex," 6 December 1991.

During that two-year period of meetings, referred to as Codex's 19th Session from 1989-1991, a total of 445 industry representatives served on national delegations, compared to only 8 representatives of public interest non-governmental organizations.[64] At the 1995 meeting, the U.S. instructed its 19 delegates representing various corporations to lobby the delegates of other countries regarding three important votes on the definition of "sound science" and the health risks of using hormones to promote growth in beef cattle and milk production in dairy cows.[65]

Given this degree of corporate influence, it is not surprising that many Codex standards are relatively weak. For the U.S., some 20 percent of more than 1,200 standards for maximum residue limits of pesticides on foods are subject to challenge under these rules[66]; Codex allows levels of toxins such as DDT and Heptachlor up to 50 times greater on some food products than U.S. law permits.[67]

Yet under the Uruguay Round Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), governments must bring more stringent national and sub-federal regulations for food safety into conformance with the weaker standard. If one country -- let's say a country using such pesticides intensively -- chooses to challenge another country's more stringent law as a barrier to trade, a WTO dispute panel is instructed to determine whether the country with stricter standards can prove that those standards are:

- "necessary" for the protection of human, animal or plant life; and
- based on "scientific principles" and not maintained "without sufficient scientific evidence;"[68] or where such evidence is insufficient, they may "provisionally" adopt regulations based on "available pertinent information" while seeking information "for a more objective assessment of risk" and a subsequent review.[69]

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64 Natalie Avery, Martine Drake, and Tim Lang, "Cracking the Codex: An Analysis of Who Sets World Standards" (National Food Alliance, April 1993.)

65 Rodney E. Leonard. "Codex at the Crossroads: Conflict on Trade, Health" (Community Nutrition Institute, 14 July 1995.)

66 "International Food Safety: Comparison of U.S. and Codex Pesticide Standards" (U.S. General Accounting Office, August 1991.)

67 Goldman, Patti and Richard Wiles. *Trading Away U.S. Food Safety*. Public Citizen and the Environmental Working Group. Washington DC. April 1994.

68 Final Act of the Uruguay Round. Agreement on the Application of Sanitary and Phytosanitary Measures, Article 2.2, April 1994.

69 Final Act of the Uruguay Round, Agreement on the Application of Sanitary and Phytosanitary Measures, Article 5.7, April 1994.

But what is "necessary" or "scientific" -- and who should make such a determination? A few years ago, Canada charged that a U.S. law banning the importation, manufacture and use of asbestos was a barrier to trade on just these grounds -- a measure the EPA estimated would save nearly 1,900 lives by the end of this decade. Quebec, a province with a substantial interest in asbestos mining, led the opposition arguing that a ban was not the least-trade-distorting alternative. In October 1991, the US Court of Appeals upheld the Canadian objection because the EPA had rejected less trade-distorting alternatives that were "less burdensome to industry." [70] The European Union has listed the Delaney Clause, a U.S. "zero tolerance" law prohibiting food additives known to cause cancer in laboratory mice, in its annual report on U.S. trade barriers.[71]

Any government (whether national or sub-federal) that wishes to defend more stringent health and food safety standards -- usually achieved through consumer activism and the legislative process -- bears the burden of proof. A government wishing to defend more stringent regulation will likely bear the burden of proving that the regulation is both necessary and scientific. Where a government is less protective of health, the GATT has no jurisdiction. Thus, the net effect of the GATT/Codex standard-setting regime may be to health and safety regulation to a least common denominator.

If the higher standards are not successfully defended, they must be revoked or that government may face retaliation. Yet that government may not be the strongest defender of policies that internalize the polluters' costs or otherwise block harmful production. U.S. Trade Representative Carla Hills, for example, used the threat of trade retaliation very effectively against the State of California's "Big Green" initiative in 1989, which would have banned pesticides known to cause cancer or birth defects, and prohibited numerous other environmentally destructive activities. This tough legislation could set off an international trade war, she said.[72] (It lost.)

More recently, in June 1995, the European Union's agriculture commissioner announced that the new SPS rules obliged him to reconsider the EU's ban on imports of genetically-engineered beef hormones; the "situation needs to be reassessed from a scientific point of view," he said. His counterpart in the U.S. insisted that the "United States will not accept the use of unsound science to restrict trade.... None of us can afford to have unjustified sanitary regulations become the next predominant trade barrier." Another U.S. official confirmed that the U.S. would take the EU to the

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70 Shrybman, Steven. "Trading Away the Environment." *World Policy Journal.* New York. Winter 1991-92.

71 Goldman, Patti and Richard Wiles.*Trading Away U.S. Food Safety.* Public Citizen and the Environmental Working Group. Washington DC. April 1994.

72 Liebert, Larry. "U.S. To Probe 'Big Green' Initiative: Administration Worried About Effects on Trade." *San Francisco Chronicle.* July 11, 1990.

WTO on this matter, which costs U.S. beef producers $100 million per year in lost sales.[73] Of course, by the same token, the EU ban earns $100 million for other beef producers -- and grants European consumers the right to be free of the genetically-engineered hormones, consistent with the precautionary principle.

Unlike the Uruguay Round's SPS agreement's reference to Codex, the Uruguay Round Agreement on Technical Barriers to Trade (TBT) does not refer to which international standards governments must harmonize their domestic policies. However, it does say that countries "shall use ... relevant international standards" as a basis for national regulations and standards -- including packaging, marketing and labeling requirements, and procedures for assessment." Here too, national governments bear the burden of proof if their domestic standards create barriers to foreign exporters; they must prove that:

- "like" domestic products are regulated in the identical fashion; and
- the domestic regulation is not "more trade restrictive than necessary" to fulfill a "legitimate" national objective.[74]

The International Standardization Organization (ISO) is certainly the largest standard-setting organization in the world. Created in 1946 by the governments of 25 countries to "facilitate the international coordination and unification of industrial standards," the ISO has more than 100 members, each representing the "national body most representative of standardization in its country." Although acting as national representatives, 30 percent of the appointed members are private institutions.[75] And industry influence is evident: representatives of the Merck and Bayer pharmaceutical companies, for example, serve as chairs for two subcommittees of the ISO technical committee charged with drawing up environmental management standards.[76]

Whether or not the WTO is used eventually to oblige governments to enforce the use of ISO standards, which are otherwise voluntary and directed at producers, ISO-certified companies are likely to dominate global trade. Already, corporations have found ISO certification of quality

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[73] Peter M. Tirschwell, "EU Official Will Review Prohibition on Beef Containing Growth Hormones," Journal of Commerce, 5 June 1995.

[74] Final Act of the Uruguay Round, Agreement on Technical Barriers to Trade, Article 2, April 1994.

[75] Campbell, Laura B. *International Environmental Standards: Their Role in Mutual Recognition of Ecolabelling Schemes.*. Prepared for the OECD Workshop on Ecolabelling and International Trade. United Nations Environment Programme. October 6-7, 1994.

[76] Roht-Arriaza , Naomi. "Shifting the Point of Regulation: The International Organization for Standardization and Global Lawmaking on Trade and Environment." *Ecology Law Quarterly.* Volume 22, Number 3. University of California, Berkeley. 1995.

management as a "de facto reuirement" to do international business.[77] ISO standards are referenced in various directives of the European Community, by federal agencies in the U.S. government, and by many developing countries to select contractors. And there is legislation in the European Union that would require all foods labeled "organic" to meet ISO standards by a certifying agency accredited by a relevant national standards body.[78]

Using the WTO to enforce weak standards set by Codex Alimentarious or, perhaps in the future, those set by the ISO and other international standard-setting bodies where corporate interests wield considerable influence severely undermines democratic rights. Rod Leonard, director of the Community Nutrition Institute in Washington DC, has spent his lifetime campaigning for procedural democracy -- decisive roles for the public in administrative rule-making, standard-setting and regulatory procedures. It may be a "unique American form of government, and an aspect of liberal democracy not available to citizens of most other countries," he recognizes, "but the trade agreements adopted in the 1990s are beginning to focus on how to destroy procedural democracy."[79]

So too, the WTO and its affiliated bureaucracies undermine the potential of trade policy as an effective instrument for internalizing environmental and social costs. Placing the burden of proof on nations to defend higher standards creates downward pressure on standards. As a publication of the United Nations Research Institute for Social Development (UNRISD) put it, transnational corporate "leverage ... has allowed them occasionally to play nations and communities off against one another in an effort to receive the most advantageous benefit package, a dynamic that generates a 'downward harmonization' of labor, consumer and environmental standards."[80]

And there is no provision in the Uruguay Round agreement for upwards harmonization. Where a government is less protective of health, the GATT has no jurisdiction and cannot use the power of economic markets as an incentive for upgrading the safety of the world's food supply. The insidious nature of trade-related harmonization is revealed.

The World Trade Organization

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[77] Walter, Mary. "ISO-sclerosis." *Environmental Solutions*. October 1995.
[78] Chris Elliott, Memorandum to "Interested NGOs," Worldwide Fund for Nature, 15 May 1995.
[79] Leonard, Rod. "Memorandum re: Procedural Democracy." Community Nutrition Institute. Washington DC. December 4, 1995.
[80] Eric Kolodner, Transnational Corporations: Impediments or Catalysts of Social Development? (UNRISD, 1994).

Nation-states may find that their sovereignty disappeared (and likewise, citizens may find they have lost their democratic rights) on January 1, 1995, when the new World Trade Organization (WTO) entered into force. With the creation of the WTO, the traditions of GATT itself -- flexible negotiations among consenting parties through a series of negotiating rounds -- have disappeared. In their place, the WTO will use voting and binding dispute resolution procedures backed by economic sanctions to enforce its decisions.

Chief among the WTO's characteristics is the legislative and judicial power to address areas that had formerly been strictly national in scope -- as India's former representative to the GATT put it, "by a simple semantic strategm of prefixing the adjective 'trade-related' to any area of national competence." Furthermore, the WTO is a permanent political body and can, with a three-fourths majority, establish new obligations at any time; under the old GATT, the principle of non-discrimination gave every country an implicit veto toward any new obligations that might be proposed.[81]

Instead of sovereign contracting parties who could choose to participate or not in any of the 180 or more treaties comprising the earlier GATT system, the WTO has "members" which must agree to each of the agreements of the Uruguay Round in order to participate in the world trading club at all. Exclusion is almost unthinkable in today's integrated economy, after a decade of structural adjustment forced net-food importing dependence and open investment regimes upon most of the Third World. Indeed, one of the WTO's explicit goals is "achieving greater coherence in global economic policymaking" with the IMF and the World Bank.[82]

The WTO even assumed the power to require a Member to "ensure the confomity of its laws, regulations and administrative proceedings with its obligations as provided" in the Uruguay Round agreement."[83] Under these rules, the WTO can oblige Members to enforce the revision of certain national, state and local laws -- such as regulations for pesticides, logging from public lands, recycled paper content, automobile emissions or nutrition labeling -- to minimize their "trade-restrictive" effects or to bring them into compliance with often weaker international standards.[84] According to the Office of the U.S. Trade Representative, even "Indigenous Tribes" recognized

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[81] Shukla, S.P. "The WTO and the Nation-State." *Third World Resurgence.* Number 60. Third World Network. Penang, Malaysia. 1995.

[82] Uruguay Round Final Act, Agreement Establishing the World Trade Organization, Article 3.5.

[83] Uruguay Round Final Act, Agreement Establishing the World Trade Organization, Article 16.4.

[84] Wallach, Lori. "Hidden Dangers of GATT and NAFTA." *The Case Against "Free Trade": GATT, NAFTA, and the Globalization of Corporate Power.* Earth Island Press. San Francisco, California. 1993.

through a century of treaties negotiated according to the U.S. Constitution, will be considered "sub-federal jurisdictions" under the WTO.[85]

Disputes resulting over implementation of the Uruguay Round will be decided in secret by panels of trade experts appointed by government; the rules prohibit the members of a dispute panel from releasing documents and from disclosing their opinions to the public.[86] When a dispute panel judges that a country's trading behavior or domestic law does not comply with the rules of the Uruguay Round agreement, the country may bring an appeal before another panel of appointed appellate judges. Whereas formerly a unanimous opinion of all the GATT contracting parties was required before retaliatory trade sanctions could be imposed to enforce a dispute panel's finding (and there were no appeals and no appellate panel -- generally, a losing country would negotiate a satisfactory settlement well before retaliation was proposed[87], the new appellate panel's opinions after the Uruguay Round will be absolutely binding unless all WTO Members -- including plaintiffs and defendants -- unanimously agree to reject its decision.[88]

A losing country is supposed to change the offending practices, laws or administrative procedures within a reasonable period of time. If it fails to do so, the winning country can retaliate by asking the WTO for permission to suspend a certain amount of its trade with the loser. For example, if a country refuses to change a food-related law judged to be unnecessarily stringent, it could lose opportunities to trade in agricultural products with the other country -- or pay an equivalent monetary compensation. If this penalty is not sufficiently effective, then the winning country can "cross-retaliate" with sanctions against industrial products and other perhaps more costly sectors of the economy.[89]

Sanctions and cross-retaliation are powerful economic instruments. In fact, the mere threat of sanctions is often sufficient to persuade countries to change their laws or other trade practices. Sanctions are also a single-sided sword, their effectiveness being relative to the disputing countries' economic dependence, market shares, and import sensitivity.

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[85] "Resolution on General Agreement on Tariffs and Trade." Resolution #94-DEN-LG/HRC-134. National Congress of American Indians. Washington, DC. November, 11994.

[86] Uruguay Round Final Act, Understanding on Rules and Procedures Governing the Settlement of Disputes, Article 14.

[87] Hudec, Robert E. *Developing Countries in the GATT Legal System.* Trade Policy Research Centre. Gower Publishing Company. London. 1987.

[88] Uruguay Round Final Act, Understanding on Rules and Procedures Governing the Settlement of Disputes, Article 16.

[89] Uruguay Round Final Act, Understanding on Rules and Procedures Governing the Settlement of Disputes, Article 22.

Nicaragua, for example, won a GATT dispute against the U.S. in the mid-1980s. The panel agreed that the U.S. had violated GATT Article XIII which prohibits the dicriminatory administration of quotas. The full GATT Council adopted the panel report in March 1984, implying that the U.S. should adjust its trading practices or face retaliation.[90] But the Reagan Administration said it had no intention of complying and instead imposed a complete embargo of all trade with the Sandinista regime, citing "national security" -- a justification recognized by the GATT in Article XXI. Nicaragua returned to the panel, asking it to reject the U.S. position, since Nicaragua could not possibly threaten the security of the United States. The U.S., joined by the European Community and other industrialized countries, convinced the panel to review the case without ruling on the security considerations of a sovereign state. Limited to determining whether the trade embargo nullified and impaired commercial benefits to which Nicaragua was entitled, the panel finally decided not to rule at all -- since the remedy would have allowed Nicaragua to suspend trade with the U.S., a remedy which was useless under the embargo. No report was ever adopted for this second panel.[91]

As of April 1996, WTO panels were actively considering four disputes, there were two requests for new panels, and consultations were underway for 14 complaints. Of these 20 cases, 8 involved agricultural trade [92] The first dispute to reach the appellate stage involved Venezuela and Brazil, which had complained that U.S. Clean Air Act applied discriminatory standards for reformulated and conventional gasoline which penalized their exports. The appellate panel -- which includes an appointee from each of the United States, New Zealand, Germany, Egypt, the Philippines, Uruguay and Japan[93] -- decided against the U.S. On June 19, 1996, in what many observers considered a test of Washington's commitment to WTO rules, the U.S. announced that "it is the intention of the United States to comply" with the panel's findings.[94]

In another case, however, the U.S. did not prove to be so compliant. A 1995 dispute panel issued a complicated ruling that found that most of three U.S. laws regulating automobile gasoline consumption were consistent with the GATT. The three were laws to implement the Clean Air Act of 1990, including the Corporate Average Fuel Economy (CAFE) standards, a tax on "gas

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[90] *Basic Instruments and Selected Documents, GATT Series.* 31st Supp., p. 67. 1985.

[91] Hudec, Robert E. *Enforcing International Trade Law: The Evolution of the Modern GATT Legal System.* Butterworth Legal Publishers. 1991.

[92] "Overvciw of dispute settlement at the WTO." *Focus.* Information and Media Relations Division of the WTO. Geneva, Switzerland. May 1996.

[93] "EU Gives Up Demands; WTO OKs Members of Appeals Body." *Journal of Commerce.* November 30, 1995.

[94] "U.S. to conform with WTO ruling on gasoline imports." Reuters. *Environmental Network News.* June 19, 1996.

guzzlers," and a tax on "luxury" cars costing more than $30,000. The European Union had argued in support of manufacturers of the Mercedes, BMW, and other large or fast models that the U.S. laws were discriminatory and violated GATT's Article III requiring National Treatment. The panel decided that, of several aspects of the CAFE standards that do violate Article III, all but one could be considered legal "exceptions" under GATT Article XX, which allows exceptions when "the conservation of exhaustible natural resources" are at stake as long as the restriction applies domestically as well. [95]

But one aspect would not qualify for the Article XX exception for "conservation": a clause requiring manufacturers to produce cars that across their domestic and foreign fleets as a whole average 27-miles-per-gallon -- on grounds that the provision regulates manufacturers instead of the actual traded product. In response to this finding, the U.S. announced that because the GATT-illegal fleet-averaging rules "do not have any actual economic impact on EU auto manufacturers, and therefore no trade damage results from this requirement, Ambassador Kantor said that the United States does not intend to make any changes in the CAFE rules."[96]

Conclusion

Whether or not the U.S. intends to comply with other GATT rules and WTO findings in the future is an open question. Bob Dole, the leading Republican contender for the United States presidency, has made it clear that if the WTO decides against perceived national interests three times, the U.S. Congress should move to withdraw from membership in the WTO altogether.[97]

But what is the national interest? In testimony before a committee of the U.S. Congress in 1994, consumer advocate Ralph Nader asserted that the rules of the World Trade Organization constitute "a Corporate Bill of Rights." The Uruguay Round agreements, he said, "would strengthen and formalize a world economic government dominated by giant corporations, without a correlative democratic rule of law to hold this economic government accountable."[98]

All too often, critics of the unquestionably skewed world food system blame the farmers for defending their support programs or demanding higher farm prices. But in fact, North American

95 Press Release. "U.S. Fuel Conservation Measures Upheld by GATT Panel." Office of the U.S. Trade Representative. September 30, 1995.
96 Press Release. "U.S. Fuel Conservation Measures Upheld by GATT Panel." Office of the U.S. Trade Representative. September 30, 1995.
97 Maggs, John. "The 'sore loser' commission." *Journal of Commerce*. May 16, 1996.
98 Nader, Ralph. "Testimony on the Uruguay Round of GATT Before the Trade Subcommittee of the House Ways and Means Committee." Washington DC. February 1, 1994.

farmers get only 4 cents out of every consumer dollar spent on food; for the rest, about 20 percent goes to the government, 21 percent to the retail store, 26 percent to the processers and 29 percent to the brokers, traders and shippers.[99] A farmer must produce and sell 104 pounds of corn to buy a 25-ounce package of corn flakes, or 93 pounds of potatoes to order a 3-ounce dish of potato skins with melted cheese.[100]

Nor do the consumers benefit from the externalization of food production costs. Consumer food prices rose 36 percent between 1981 and 1987[101], years in which farm prices in the U.S. fell from near three-quarters to just over half of parity. In 1990, packaged cereal prices increased 6 percent while grain prices fell an average of 11 percent.[102] From 1990-92, the farmers' price for fluid milk fell about 28 percent while the retail price dropped just 3 percent.[103]

"Food is cheap only at the farm gate," summarizes Tom Asbridge, Executive Director of the American Agriculture Movement in 1994. "Real food costs must include the cost to the taxpayers to maintain this 'cheap-food' policy. Taxes and income will be consumed to pay the increasing national debt this policy in part creates. If food is so cheap, why do 26 million Americans need food stamps?"[104]

Meanwhile, fewer than ten transnational food companies control virtually every aspect of the worldwide food chain.[105] Fewer than five companies control 90 percent of the export market for each of wheat, corn, coffee, tea, pineapple, cotton, tobacco, jute, and forest products. The same compnies that control the trade in commodities also control storage, transport and food-processing facilities. Cargill, for example, is not only the world's largest grain company, it is also ranked as the world's larges food products corporation, followed by Kroger, American Stores, Continental Grain, Philip Morris, and MacDonald's.[106] Cargill and Continental Grain each control about 25 percent of the world's grain market, with Bunge controlling another 15-20 percent and Louis

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99 *Feeding Frenzy.* Manitoba Council for International Cooperation and Canadian International Development Agency. Winnipeg Canada. Undated.

100 "Tid Bits." *Michigan Farmers Union Newsletter.* Volume 58, Number 5. October-November 1991.

101 Hanson, Merle. "Ecology and Farm Policy are Weakest Links in Survival Chain." *Guardian.* December 14, 1988.

102 "Just Another Outrage." *Michigan Farmers Union Newsletter.* Volume 58, Number 5. October-November 1991.

103 "President's Message." *Michigan Farmers Union Newsletter.* Volume 59, Number 2. March-April 1992.

104 "Quoteable quotes." *The Agribusiness Examiner.* PrairieFarm Rural Action. Number 2. September-October 1994.

105 *Feeding Frenzy.* Manitoba Council for International Cooperation and Canadian International Development Agency. Winnipeg Canada. Undated.

106 *How Secure is Our Food? Food Security and Agriculture Under the New GATT and World Trade Organization.* Women's Environment and Development Organization. Primer Number 4. 1995.

Dreyfus Corporation another 10 percent[107] -- that is, four companies control at least 75 percent of the world's basic food supply.

In 1994-95, ten cents out of every food dollar spent in the United States went to Philip Morris and another 6 cents went to ConAgra. Four companies -- IBP, ConAgra, Cargill, and Beef America -- sold 87 percent of all slaughtered beef. Two companies -- Kellogg's and General Mills -- sold two-thirds of all ready-to-eat breakfast cereals. Campbell's sold 73 percent of all canned soups. Frito-Lay sold 85 percent of all corn chips and 40 percent of all potato chips. Kraft, which is owned by General Foods which is owned by Philip Morris, sold more than half of all sliced processed cheese.108

The United States government has led the world in promoting globalized monopolies through international trade agreements, assisted by such bullying tactics as the use of Section 301's unilateral leveraging of its vast markets. Nader testified that "Kraft, General Motors, Merck, Philip Morris, American Express, Cargill, DuPont, and their foreign allies have succeeded in turning trade negotiations into power plays against nations... They demanded that they be free to invest anywhere in the world with no domestic conditions [and] they pushed for greater institutional and political power behind the trade rules vis-a-vie each nation's government, an effort that came to fruition with the WTO proposal."[109]

Indeed, in case after case, the U.S. can be seen building an international regime that ensures corporate control of not only the world's food supply but of all nations' economic and natural resources, while limiting community rights to democratically determined national regulation. Whether civil society can reverse this trend in the 21st century is up to us.

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[107] Krebs, A.V. *The Corporate Reapers: The Book of Agribusiness.* Essential Books: 1992.

[108] Krebs, Al. "Market Share Concentration in Corporate Agribusiness." Corporate Agribusiness Research. PrairieFarm Rural Action, March 1994 and telephone conversation with the author. January 16, 1996.

[109] Nader, Ralph. "Testimony on the Uruguay Round of GATT Before the Trade Subcommittee of the House Ways and Means Committee." Washington DC. February 1, 1994.