

# WTO Food and Agricultural Rules: Sustainable Agriculture and the Human Right to Food

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As United States Department of Agriculture (USDA) Secretary Dan Glickman predicted, food and agriculture issues were a challenging and acrimonious item on the agenda at the World Trade Organization (WTO) Ministerial Meeting in Seattle. In a speech to the Center for Strategic and International Studies, Glickman argued that the intensity and sensitivity of agricultural issues is greater than in the past and that agricultural issues would be the dominant and most difficult issue in the Seattle Ministerial.<sup>1</sup> US Trade Representative Charlene Barshefsky certainly supported this view, asserting before Congress that agriculture would be at the "heart" of the US agenda for future world trade talks.<sup>2</sup>

For anyone who followed the previous Uruguay Round of world trade negotiations, these comments might seem familiar. Contentious debate over agriculture trade rules is nothing new. From the very beginnings of the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT),<sup>3</sup> agriculture has been a central and contentious issue. From the founding meeting in Havana in 1947 to the recently completed Uruguay Round,<sup>4</sup> food and agriculture issues have repeatedly disrupted the entire trade negotiation process.<sup>5</sup>

1. Agriculture Secretary Dan Glickman, Speech to the Center for Strategic and International Studies (June 16, 1999).

2. See *U.S., Japan To Present Tariff Proposals For New WTO Negotiations*, INSIDE U.S. TRADE, July 2, 1999.

3. General Agreement on Tariffs and Trade, *opened for signature* October 30, 1947, 61 U.S.T. A3, 55 U.N.T.S. 187 [hereinafter "GATT"].

4. Final Act Embodying the Results of the Uruguay Round of Trade Negotiations, December 15, 1994, 33 I.L.M. 1 [hereinafter "WTO"].

5. For a closer look at the agriculture debates at the founding meeting see Burt Henningson, *United States Agricultural Trade and Development Policy During World War II: The Role of the Office of Foreign Agricultural Relations (1981)* (Ph.D. Dissertation, University of Arkansas (Fayetteville)). For a look at the same theme in the most recent round, see *Farms Talk May Kill GATT*, CHRISTIAN SCI. MONITOR, September 4, 1988.

As a result, agricultural trade negotiations often give rise to poorly considered and unworkable outcomes. The final language in the Uruguay Round Agreement on Agriculture<sup>6</sup> (AoA) was cobbled together at the last minute, papering over differences in order to permit the conclusion of the negotiations on tariffs, banking, textiles, and many other important sectors of the economy. In recognition of the unsatisfactory nature of the AoA, it was agreed that this would only be a temporary measure,<sup>7</sup> with commitments to begin new negotiations by the year 2000. These agriculture talks have, in effect, already begun and are considered to be part of what is called the "built-in" agenda of the World Trade Organization. Negotiators know that they have to tackle this issue whether or not there is an agreement to begin a comprehensive new round of negotiations.<sup>8</sup>

One outcome of the last round of talks is that despite the signing of a "peace clause"<sup>9</sup> designed to keep agricultural trade disputes to a minimum, there are more agriculture- and food-related trade disputes in the WTO than ever before. The US alone has recently filed 12 complaints in the WTO on agriculture issues, far exceeding the previous record.<sup>10</sup> One reason for the proliferation of disputes is that many of the new rules call for such dramatic changes that countries have been unable or reluctant to implement them. Chile, Hungary and the Philippines, for examples, have announced that they will not be implementing certain rules and have asked the rest of the WTO members for formal exemptions.

The Chilean government, one of the most fervent proponents of radical liberalization in the Uruguay Round, is now arguing that they cannot live up to some of their WTO commitments because world commodity prices have fallen instead of risen as they had hoped. Chilean officials are saying

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6. Agreement on Agriculture, Final Act Embodying the Results of the Uruguay Round of Trade Negotiations, signed at Marrakesh, April 15, 1994, 33. I.L.M. 1125 [hereinafter "AoA"].

7. See Agreement on Agriculture, art. 1(f).

8. A number of nations are calling for the launching of a new round of comprehensive talks at the upcoming ministerial meeting schedule for November 30 through December 2, 1999 in Seattle, Washington. If a new round is created, then these mandated agriculture talks would be folded into the larger discussion. For preparatory documents submitted for the ministerial, see <<http://www.wto.org/wto/minist/seatdocs.htm>>.

9. See Agreement on Agriculture, art. 13.

10. See Ambassador Peter Scher, Testimony before the Senate Banking and Finance and Urban Affairs Committee, Subcommittee on International Trade and Finance (May 4, 1999).

that living up to current WTO obligations would destroy much of their agricultural economy, so they are begging for a waiver that would permit them to change or abandon their previous commitments. The director of the Chilean Ministry of Agriculture's international department, Sergio Ramos, has said that world "markets have been so sporadic and have gone down quickly that our price band mechanism has been unable to cope."<sup>11</sup>

Only a handful of countries have asked for formal permission to abandon or postpone commitments made in the agriculture agreement, but many others are also finding it difficult to comply—primarily due to the general collapse of international commodity prices since the end of the Uruguay Round. According to the *Economist*, commodity prices are lower than at any point in the 150 years they have been keeping records.<sup>12</sup> Countries totally dependent on commodity exports have much lower export revenues, which leads to a reduction in the food commodity imports that they are able to pay for, affecting their food security and further diminishing the global market, thus pushing global food prices down even lower.<sup>13</sup>

With crop and livestock prices at historic lows around the planet, many countries, including the US, are overtly or covertly abandoning their WTO commitments. In the United States this year, family farmers are facing a crisis much like that of the mid-1980s due to exceptionally low farmgate prices. Since the signing of the WTO agreement in December of 1994, farm prices for most of the major commodities have fallen 30 percent or more and agricultural bankers in the heart of family farm country see grim times for at least the next few years.<sup>14</sup> In response to this crisis, the US government has abandoned a number of the commitments made during the Uruguay Round agriculture talks, including promises to reduce government

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11. *Chile to Seek Waiver From WTO For Wider Agriculture Price Band*, 16 INT'L TRADE REP. 936 (1999).

12. *A Raw Deal for Commodities*, *ECONOMIST*, April 17, 1999, at 75.

13. *See Some considerations concerning the availability of adequate supplies of basic foodstuffs from external sources to LDCs and NFIDCs*, Contribution from the United Nations Conference on Trade and Development to the World Trade Organization Committee on Agriculture (November 17-18, 1998).

14. *Federal Reserve: Farmers Face Grim Financial Outlook*, *AGRI NEWS*, July 1, 1999, at A1.

subsidies, to refrain from imposing import controls, and to cut export subsidies.<sup>15</sup>

Perhaps most shocking is that U.S. farm subsidies have continued to rise, not fall, as had been promised by AoA proponents. USDA Secretary Dan Glickman predicted 1999 would be "the highest year on record in terms of direct payments to farmers by the government—\$15.3 billion,"<sup>16</sup> nearly 50 percent above US government direct payments to farmers at the height of the Uruguay Round. In 1990, for example, direct payments were around \$9 billion.<sup>17</sup> The US has also been imposing import controls in hopes of boosting prices for US farmers, including new restrictions on wheat gluten from Europe<sup>18</sup> and lamb from New Zealand.<sup>19</sup>

The most important deviation from the AoA commitments is in the area of export dumping, or exporting goods at prices below their cost of production. The federal government, through a complex system of loan guarantees, deliberately sets domestic farmgate prices at far below the cost of production for many commodities. Due to its large share of the global market, U.S. prices for commodities tied to government loan rates have historically set the global market price for these commodities, as traders and processors jockey for supplies. Under the U.S. system, the government takes grain as collateral for farmer loans that are set at below the cost of production. It then releases the collateralized grain to the domestic market at those low prices. Theoretically, the loan rate would establish the floor price, but recent events have caused prices to drop below the already low loan rates. As farmers struggle to stay in business they produce more commodities to maintain their net income and debt payments, adding to surpluses that further depress market prices. Increasing domestic supplies have caused the US government to double the amount of export subsidies it gives to companies to clear domestic markets while also increasing

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15. See *Glickman Rejects Criticism of U.S. Farm Aid as Trade Protectionism*, INSIDE U.S. TRADE, Jan. 29, 1999, at 14.

16. *A Biotech Warrior Stresses Subtlety*, ST. LOUIS POST-DISPATCH, June 6, 1999, at A7.

17. *Agriculture Payments: Numbers of Individuals Receiving 1990 Deficiency Payments and the Amounts*, United States General Accounting Office, 1992.

18. See *U.S. Faces Two New WTO Panels on Wheat Gluten and 1916 AD Act*, INSIDE U.S. TRADE, July 30, 1999.

19. See *Australia, New Zealand Fight U.S. Safeguards on Lamb in WTO*, INSIDE U.S. TRADE, August 6, 1999.

export dumping via so-called "food aid."<sup>20</sup> In the next year, the Clinton Administration is looking to use \$5.5 billion in export credits, an increase of more than 50 percent, and to increase food aid shipments to more than 10 million tons, compared to the normal average of 3 million tons.

Notwithstanding the impassioned rhetoric of those who proclaimed that the Uruguay Round would mark the end for trade distorting farm programs, protectionist import barriers and predatory export dumping, there is a long way to go to reach those goals. Indeed, current price and policy trends suggest that the chasm between reality and the purported free trade ideals may get larger.

Under pressure from Congress to classify U.S. farm subsidies as emergency aid to exempt them from mandatory WTO notification requirements, Secretary Glickman has stated that he may not even formally report these payments to the WTO.<sup>21</sup> Farmers in Florida are asking the government to impose new import controls on a number of fresh fruits and vegetables in response to currency devaluations that they believe are being used to avoid tariffs. They argue that Mexico can simply devalue the peso by the same percentage as the tariff, nullifying the effect of the tariff in terms of net cost to US buyers, a move devastating to Florida producers.<sup>22</sup> On the export dumping issue, the head of the USDA Agricultural Marketing Service, Tim Galvin, shocked analysts when he proposed that in order to raise prices for US soybean farmers, the US government should buy and give away a major portion of next year's soybean crop.<sup>23</sup>

It comes as no surprise that the current agriculture trade rules are being abandoned or ignored since they were poorly constructed, internally contradictory, and slated for renegotiations from the very beginning. While there is widespread dissatisfaction with the current WTO agriculture rules, analysis of what is wrong and how to fix it remains wildly divergent.

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20. See Ian Elliot, *French, Australian Officials want US Credits, Aid on Table*, FEEDSTUFFS, June 28, 1999, at 2.

21. See *Text: Combest Letter to Glickman on AMTA*, INSIDE U.S. TRADE, July 2, 1999.

22. See Kevin Hall, *Sector Wants Tariff Cuts Linked to Devaluations*, J. OF COMMERCE, June 10, 1999, at 5; and Tracy Rosselle, *Top Ag Official Meet in Florida to Hear Complaints*, THE PACKER, June 14, 1999.

23. *Soybean Buy Called Alternative To Subsidy*, OMAHA WORLD-HERALD, March 17, 1999.

For example, some believe that current rules don't go far enough in opening other markets to US agriculture and that this is the cause of current low prices in the United States.<sup>24</sup> Others argue that the Uruguay Round opened US markets to far too great a level of imports, resulting in competitive crops being dumped into the U.S. market and a resulting plunge in domestic farm prices.<sup>25</sup> Others argue that the AoA failed to adequately address major trade-distorting practices, like production subsidies and export dumping, resulting in a global market that is more chaotic than ever before. Although there are bitter disagreements over how to fix current agriculture trade rules, nearly everyone concurs that they must be either reformed or abandoned.

This article will not attempt to explain or describe the details of the agriculture agreement signed at Marrakesh. There are many excellent descriptive articles that have been published in this journal and in countless other places.<sup>26</sup> Likewise, this article will not attempt to predict the future impacts of the current AoA. Far too much time has been spent arguing over the predictions of computer models, none of which have come close to reality. We have chosen to focus this article on one impact of current WTO rules of agricultural trade—the increase in export dumping by grain corporations based in the United States and on the impact of this dumping on two public policy concerns: sustainable agriculture and the human right to food security. The first section will look at the link between the current WTO agriculture trade rules and the increase in export dumping. Second, we will look at the impact of this dumping on efforts by farmers to move toward more sustainable farming practices. The third section will look at the impact of this dumping on food security in terms of the right to food in the

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24. See Dan Glickman, "U.S. Approach to Agriculture in A New Round," Remarks to XIX Meeting of the Cairns Group (August, 28, 1999); and Dennis Avery, *Asian Recovery Won't Help US Farmers*, J. OF COM., June 4, 1999, at 7.

25. See Leland Swenson, Statement Before US House of Representatives Committee on Agriculture, June 23, 1999; and *Trade Policy Should Help, Not Hurt Farmers*, MILK MATTERS, FAMILY DAIRIES U.S.A., June 15, 1999, at 1.

26. See Jeffrey J. Steinle, Note, *The Problem Child of World Trade: Reform School for Agriculture*, 4 MINN. J. GLOBAL TRADE 333 (1995); Tim Josling, "Reform of World Agricultural Trade: The Uruguay Round Outcome," Paper for Seminar on the WTO Agricultural Negotiations: the Lead up to Seattle (April 30, 1999); *Focus on the WTO: Into the Future: (Part I) Getting Ready for WTO Agricultural Negotiations*, 5 UNION FARMER Q. 12 (1999); and Sophia Murphy, "Trade and Food Security: An Assessment of the Uruguay Round Agreement on Agriculture," 1999.

United Nation's Universal Declaration of Human Rights.<sup>27</sup> The fourth section will look at how we might use upcoming WTO Ministerial to make positive changes in current WTO agriculture trade rules in regards to our two main themes, sustainable farming and food security. This section will look at the global political context for the Ministerial, and how that might affect both the official agriculture negotiations and citizen efforts to win reforms. The fifth and final section, details a set of recommendations for the kinds of changes in WTO rules that would help to encourage instead of discourage sustainable farming and food security.

### I. WTO AGRICULTURAL TRADE RULES: ENHANCING TRADE VOLUMES THROUGH EXPORT DUMPING

The US and the European Union (EU) dominated the Uruguay Round of multilateral trade negotiations. They used this control to craft agricultural trade rules with their main objective being an increase in the volume of trade in food and fiber products by the major companies that were based inside their territories, many of which enjoy dominant positions globally.<sup>28</sup> US and EU negotiators made three important changes in WTO agricultural trade rules that served to promote this narrow interest.

First, these trading companies found ways to lower the prices paid to farmers. The strength of family farm lobbies in both the US and in Europe had been strong enough in the past to win government support for setting the loan rate and, hence, domestic farm prices high enough to permit most farmers to stay in business most of the time. Supplemental payments are only needed from the government in particularly lean years. As long as internal prices were kept above world market prices there would be fewer imports and fewer exports. Domestically produced crops, from both the United States and Europe, were more expensive on world markets and therefore less competitive than crops from Thailand or Argentina. To accomplish the corporate

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27. *United Nations Declaration of Human Rights*, Art. 25.1, United Nations General Assembly, 3rd Sess., G.A. Res. 217A, U.N. Doc. A/810 (1948).

28. The top 5 international agribusiness corporations by 1998 revenues are U.S.-based Philip Morris (\$57.8 billion), U.S.-based Cargill (\$51.4 billion), Switzerland-based Nestle (\$49.5 billion), U.K./Netherlands-based Unilever (\$44.9 billion) and U.S.-based Procter & Gamble (\$37.6 billion) according to data compiled by A.V. Krebs, Director of the Corporate Agribusiness Research Project. See *The Forbes 500 Annual Directory*; *The Forbes Top 500 Private Corporations*; and *Forbes International 500 Companies* (1999).

goal of lowering crop prices, new agriculture trade rules were developed requiring countries to bring domestic prices down to the lower world prices.<sup>29</sup>

Second, they did everything possible to reduce government subsidies,<sup>30</sup> including those that helped keep a number of small and medium-sized farmers in business. Many farmers around the planet are supported in various ways that make it possible for them to continue producing for local markets, effectively shutting out import foods. New rules were drawn up to reduce subsidies to domestic producers in hopes that these reductions would push a number of farmers out of business and off their farms; their production would then be replaced by imported foods. In the context of a global market, this would mean, for example, more corn from the US going into Brazil and more sugar from Brazil coming into the United States.

Third, US and EU negotiators worked hard to remove as many economic barriers<sup>31</sup> (import tariffs, export levies, etc.) and non-economic barriers (such as health and safety regulations<sup>32</sup>) to trade. Their objection was that these barriers to imports and exports tended to raise the short-term price of internationally traded goods, potentially making them less price competitive than locally produced goods. Again, the basic objective is to increase the volume of imports and exports.

At the same time, agribusiness lobbyists were working overtime to protect their clients' right to use government funds for export subsidies and credits. In this endeavor, they were also largely successful. While the Uruguay Round did result in some reduction in export subsidy expenditures,<sup>33</sup> a number of the most important export subsidy programs, such as credit guarantees, were left untouched.<sup>34</sup>

US and EU negotiators successfully walked the tightrope of protecting export subsidies while cutting government support in other areas. The end result has been more or less as expected: increased volumes of production to try to make up in volume traded what was lost to lower prices and less government sup-

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29. See Agreement on Agriculture, art. 6.1.

30. See Agreement on Agriculture, arts. 6, 7.

31. See Agreement on Agriculture, art. 4.

32. See Agreement on Agriculture, art. 14.

33. See Agreement on Agriculture, arts. 8, 9, 10, 11, 12.

34. The US government is gearing up to keep these kinds of export subsidies off the negotiating table in the future. See *US to Resist Efforts to Classify Agricultural Credit Guarantees as Subsidies*, BNA DAILY REPORT TO EXECUTIVES, June 28, 1999.

port – and thus increased export dumping. In spite of waves of financial and economic instability since the signing of the WTO agreement in Marrakesh, import and export volumes flowing through Europe and the United States have risen due to lower prices and payments and to the reduction in regulatory controls on trade. In the United States, for example, exports of our two largest crops, corn and soybeans, have risen in spite of global economic difficulties. Before the signing of the Marrakesh Agreement (1993-94 market year) US corn exports were 1.328 million bushels compared to 1.504 million bushels during the 1997-98 marketing year – an increase of over 10 percent. For soybeans, US exports before Marrakesh were 589 million bushels compared to 870 million last year.<sup>35</sup>

## II. TRADE VOLUMES RISE ALONG WITH EXPORT DUMPING

This increase in the volume of US grain and oilseed exports in the face of global economic difficulty is due in part to an increase in export dumping by the United States. This increase in dumping is due largely to three factors: (1) the setting of farm prices by the federal government at artificially and unrealistically low levels; (2) rising costs of production, causing an even greater gap between falling export prices and rising costs of production; and (3) the expansion of direct and indirect export subsidies. All three of these factors are closely linked to the implementation of current WTO rules, as discussed below.

In the US, the AoA was the guidebook for the re-writing the commodity sections of new federal farm legislation. This new law, ironically called the “Freedom to Farm” bill, was designed to meet WTO agreements calling for lower US farm prices, resulting in a drop of around 25 percent in the prices paid to US farmers. This legislated reduction brought prices below costs, resulting in export prices far below average costs of production. The accompanying chart looks at the cost of production compared to market prices and shows that US export dumping has increased since the coming into force of the WTO.

Much of the agribusiness sector has been consolidated into literally a handful of global monopolies or near monopolies since the signing of the Uruguay Round agreements in April 1994. While it is not yet possible to fully assess the wide spectrum of

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35. See *Crop Production and Market Data*, 62 DOANE'S AGRIC. REPORTS 19-5 (1999).

**US AGRICULTURAL EXPORT DUMPING MONITOR**  
1994 - 1997

Crop	Year	Cost of Production (COP) Excluding Gov't Subsidies <sup>1</sup>	Full COP Including "GATT-Recognized" Gov't Subsidies <sup>2</sup>	Average Export Price <sup>3</sup>	Export Dumping as a Percent of COP <sup>4</sup>	Export Dumping as a Percent of Full COP
<b>Corn</b> (\$/bu)	1994	2.25		2.74	[21.8]	
	1995	3.14	3.96	3.41	[8.6]	13.9
	1996	4.45		6.61	[48.5]	
	1997*	2.29		3.28	[4.3]	
<b>Cotton</b> (\$/lb)	1994	0.86		0.89	(3.5)	
	1995	1.57	1.98	1.46	7.0	26.3
	1996	1.11		1.01	9.0	
	1997*	0.96		0.81	15.63	
<b>Rice</b> (\$/cwt)	1994	9.08		17.55	[93.3]	
	1995	10.77	10.92	15.89	[47.54]	[45.5]
	1996	13.25		23.53	[77.60]	
	1997*	14.08		26.40	[87.5]	
<b>Soybeans</b> (\$/bu)	1994	5.61		6.91	[23.2]	
	1995	6.39	n/a	6.64	[3.9]	n/a
	1996	8.06		10.08	[25.1]	
	1997*	8.31		10.40	[25.2]	
<b>Wheat</b> (\$/bu)	1994	4.85		4.29	11.5	
	1995	6.32	8.27	5.72	9.5	30.8
	1996	8.11		7.69	5.2	
	1997*	5.81		5.08	12.6	

\* Adjusted using projected Producer Price Index (PPI) numbers.

<sup>1</sup> Cost of production (COP) data includes fixed and variable cash expenses and economic ownership costs. The COP data does not include government-paid costs of production, such as those measured by the Aggregate Measure of Support (AMS) under the Uruguay Round of the General Agreement on Tariffs and Trade (GATT). COP data is compiled by the US Department of Agriculture Economic Research Service (USDA ERS). Data was adjusted for inflation (constant dollar terms) using the PPI for individual commodities (1982=base period, with the exception of rice which uses 1991 as the base period) as calculated by the US Bureau of Labor Statistics (BLS).

<sup>2</sup> Full COP includes the GATT UR Aggregate Measure of Support (AMS) per unit as calculated by the USDA ERS. AMS figures reflect the government-paid costs for market price support, direct income supports, input cost subsidies. It does not include the cost of other government services such as research, inspection services, environmental programs, export marketing programs or tax benefits. AMS figures available for 1995 only.

<sup>3</sup> Export prices for wheat, corn and soybeans reflect f.o.b. at the Gulf-of-Mexico ports. Cotton export prices reflect a seven-market f.o.b. average spot price. Rice prices represent f.o.b. Houston market prices. All export prices compiled by the USDA ERS. *Agricultural Outlook* series, Table 24. All export prices reflect commercial shipments as well as commodities shipped and sold through US food aid, export subsidy and marketing programs. Export prices adjusted for inflation (constant dollar terms) using the PPI for individual commodities (1982=base period, with the exception of rice which uses 1991 as the base period) as calculated by the US BLS.

<sup>4</sup> Percent of Export Dumping (PED) calculated by subtracting COP from the Export Price and dividing by the COP for each commodity. Bracketed numbers [ ] indicate that no dumping has occurred, that is, exports are sold at a price above the US domestic costs of production.

impacts of this degree of monopolistic control, it is evident that higher prices are being charged to farmers for inputs and lower prices paid to them for their production.<sup>36</sup> While concern about monopolistic behavior is growing among producers in the US, the Clinton Administration has steadfastly refused to allow any discussion of anti-trust disciplines at the WTO. Perhaps the most obfuscatory but telling statement reflecting this refusal was made by Joel Klein, Assistant Attorney General for the Antitrust Division of the Justice Department, in a June 30<sup>th</sup> speech to an Organization of Economic Cooperation and Development conference on trade and competition: "[T]he relationship between international trade and international antitrust is so important, so complete, and so rapidly evolving that no one institution or series of bilateral or multilateral arrangements should be permitted to monopolize it."<sup>37</sup>

The third element of the new trade rules that have contributed to export dumping are the provisions that essentially legitimized, for the very first time in history, the paying of export subsidies for grain and other farm commodities. GATT rules against dumping had prohibited the sale of goods at prices below the cost of production, including a return on investment and the cost of marketing: "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."<sup>38</sup> However, under the new WTO rules, export subsidies are explicitly permitted and they are transferable between and among different crops and producers at the discretion of governments.<sup>39</sup> Under these rules, the US government can now move export subsidies from one crop to the next and be completely legal under the WTO. This means that when certain U.S. internal prices are so low they do not need export subsidies to out-compete the production of other countries, the situation of U.S. corn and soybeans at the moment, export subsidies formerly used for those crops can be transferred to other crops to help finance their dumping.

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36. See William Heffernan, *Consolidation in the Food and Agriculture System: Report to the National Farmers Union* (1999).

37. Joel Klein, "A Reality Check on Antitrust Rules in the World Trade Organization, and a Practical Way Forward on International Antitrust," Speech to the Organization for Economic Cooperation in Europe (June 30, 1999).

38. General Agreement on Tariffs and Trade, art. VI.1.

39. See Agreement on Agriculture, arts. 8, 9, 10, 11.

### III. IMPACT OF WTO-ENCOURAGED EXPORT DUMPING ON ECONOMICALLY AND ECOLOGICALLY SUSTAINABLE AGRICULTURE

Each of these three dumping policies – lowering of farm prices, encouraging monopoly, and the legitimizing of export subsidies – have had negative impacts on efforts to move US farming practices toward financial and ecological sustainability. For the purposes of this paper, we define sustainable agriculture by four broadly accepted elements: (1) prices which cover the full cost of production, including environmental costs and fair income; (2) reduced dependence on chemical fertilizers and pesticides; (3) reduction of externalized ecological impacts through pollution prevention and cost internalization; and (4) greater reliance on the use of ecologically modern farming practices such as integrated pest management (IPM), crop rotations, no-till and reduced tillage systems, and other practices that reduce soil loss and contamination, cut air and water pollution, and avoid losses in habitat and biodiversity.

The farm crisis we face today speaks for itself in terms of economic sustainability. The price levels and support cuts facilitated by the WTO agreement have put most US farmers at risk of bankruptcy. A few statistics on the current crisis will provide some context. While it is not accurate to directly tie all aspects of the current crisis to the Uruguay Round Agreements, there are strong indications of its major role, especially in the lowering of farm prices. Since the signing of the Uruguay Round Agreements, wheat prices are down 42 percent and corn prices are down 38 percent.<sup>40</sup> In almost all regions of the North America, net farm income is down dramatically. In Illinois, Farm Business Management Association records in 1998 showed a drop to \$11,074 average farm income compared to the recent five-year average of \$31,000.<sup>41</sup> In the Red River Valley of North Dakota and Minnesota farm income fell to \$20,600 in 1998 compared to \$37,000 in 1997.<sup>42</sup> On Prince Edward Island, in Canada, farm income is down to \$7.5 million after averaging \$43 million between 1990 and 1996.<sup>43</sup>

As farm prices fall, many producers respond by attempting to increase their yields. Some do this by plowing up more land.

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40. Price figures are from Ian Elliot, *supra* note 21.

41. See Dan Miller, *Illinois*, PROGRESSIVE FARMER, July 1999, at 18.

42. See Dan Miller, *North Dakota*, PROGRESSIVE FARMER, July 1999, at 19.

43. See NFU Presents *Brief on Farm Income Crisis*, UNION FARMER MONTHLY, May 1999, at 7.

Others do it by applying ever greater quantities of fertilizer and other chemicals. This intensification strategy is often harmful to the environment. Even the WTO itself has begun to acknowledge the negative ecological consequences of falling farm prices. A recent report of the official WTO Committee on Trade and Environment (CTE)<sup>44</sup> cited studies<sup>45</sup> acknowledging that farm price cuts in the North (US, Europe, etc.) can result in an increase in the intensity of their chemical use and other inputs. These studies show that because most farmers are in debt, and therefore need to maintain their cashflow, they increase production through either intensification (more fertilizer and pesticides) or extensification (plowing up new lands). Both of these responses are environmentally damaging, and both have been seen in the United States since prices began to fall after the WTO-framed "Freedom to Farm" bill of 1996. The most thorough analysis of the environmental impacts of agricultural trade liberalization, conducted by the North American Free Trade Agreement (NAFTA) Commission for Environmental Cooperation, includes a case study of corn (maize) that concludes that "the differential pace and degree of reduction and elimination of tariffs and other trade barriers under NAFTA can have major impacts on production and consumption substitution in ways that are not optimal for economic efficiency or environmental enhancement."<sup>46</sup>

The WTO rules have created a disincentive for ecological cost internalization at both the farm level and at the national level. Some approaches to more sustainable agriculture produc-

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44. WTO Committee on Trade and Environment, *Environmental Benefits of Removing Trade Restrictions and Distortions: Note by the Secretariat*, WT/CTE/W/67 (Nov. 7, 1997).

45. See, e.g., K. Anderson and R. Tyers, *DISARRAY IN WORLD FOOD MARKETS: A QUANTITATIVE ASSESSMENT* (1992).

46. For a fully developed analysis of all of the impacts of trade liberalization on all aspects of sustainable agriculture, see Commission for Environmental Cooperation, *Assessing Environmental Affects of the North American Free Trade Agreement (NAFTA): An Analytic Framework (Phase II) and Issues Studies* (1999). This study by the NAFTA Commission for Environmental Cooperation traced four aspects of agriculture that affect the environment – production, management and technology; physical infrastructure; social organization; and government policy – and evaluated their respective impacts on the air, water, land and biodiversity. The analysis was concentrated on North America, but the conclusions about the inter-relationships between changes in trade policies, impacts on farm prices, and eventual environmental impacts are largely applicable to an analysis of similar issues with the WTO. The CEC looked more closely at two specific sectors – the production of corn (maize) in Mexico, and beef feedlots in the U.S. and Canada.

tion do not involve great increases in costs, but some do – with economic implications for farmers. For example, the United Nations Food and Agriculture Organization (FAO) has found that for soya and other oil crops the internalization of environmental costs would result in the long term in “marked increases of production costs of the major producers and exporters and affect their relative competitiveness and international market shares.”<sup>47</sup> Another example is the cost internalization mechanism called the “polluter pays principle.”<sup>48</sup> Adding additional taxes to the cost of fertilizer or pesticides to help cover some of the costs of clean-up are facing stiff resistance as prices paid to farmers are being lowered by the trade regime. There have been some proposals to implement countervailing duties to offset externalized environmental costs<sup>49</sup> but such duties are likely to be condemned as barriers to trade.

WTO-led cuts in farm prices have put organic and other sustainable farmers at greater economic risk. Although the organic market in the U.S. and Europe has been growing by 10-20 percent annually,<sup>50</sup> many organic producers are finding that current market prices are so low they are unable to get premium prices high enough to continue their organic production. For example, in 1994, the year that the AoA was signed, prices received by Minnesota soybean growers using organic methods was over \$21 dollars per bushel. This has declined to only \$8.00 per bushel this year, with predictions of lower prices next year.<sup>51</sup>

#### IV. IMPACT OF EXPORT DUMPING ON THE HUMAN RIGHT TO FOOD SECURITY

Ensuring an adequate, safe, and affordable food supply is perhaps the oldest and most basic role of government. Throughout human history, local, regional and national governments have ensured a steady supply of basic foods by taking steps to eliminate or counteract supply (and therefore price) fluctuations

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47. *Possible Impacts of Environmental Regulations on the Cultivation, Processing and Trade in the Two Major Annual and Perennial Oil Crops*, FAO, CCP:OF97/2 (1997).

48. See *Recommendation on Guiding Principles Concerning Environmental Policies*, OECD (May 26, 1972); *Rio Declaration on Environment and Development*, UNCED, A/CONF.151/26 (August 12, 1992).

49. See Thomas K. Plochan, Jr., *Recognition and Countervailing Environmental Subsidies*, 26 INT'L LAW. 763 (1992).

50. See *Organic: Growing into the 21<sup>st</sup> Century*, Organic Farm Research Foundation, Santa Cruz, Cal. (1999).

51. Interviews with staff at the Organic Growers and Buyers Association, New Brighton, MN (May 1999).

related to unpredictable factors such as the weather, disease, pests, and technology. The United Nations "Universal Declaration of Human Rights" declared the right to food and to feed oneself as a central obligation of government along with protecting freedom of religion and the right to be free from torture. Over the years, governments have developed a broad range of policy tools, such as inventory management schemes, quantitative controls on import and export controls, cost-of-production price supports, and government-held emergency food reserves to keep supply balanced with demand in order to keep prices within acceptable ranges – for both farmers and consumers.<sup>52</sup>

The AoA, however, included a large number of provisions specifically designed to limit the type and magnitude of government interventions allowed in the pursuit of stable prices for farmers and consumers. The resulting price volatility has been especially hard on poor countries, increasing the social and economic burden<sup>53</sup> of their governments and adding to their costs for food imports.<sup>54</sup> Perhaps the most important rules of the AoA in this regard were those that tended to increase export dumping and those that placed limits on the ability of individual countries to protect themselves from this dumping or other price destabilization actions. Many Third World countries that rely on commodity exports for their foreign earnings have seen this income drop, reducing their pool of hard currency. Since the new Uruguay Round agreement severely limits governments' ability to control imports and exports through quantitative restrictions or tariffs, there is very little they can do except borrow more money or go without crucial imports, such as medicine or basic foods.

With new WTO rules limiting the ability of countries to control imports, local farmers are seeing the prices they receive fall to the lower world levels. This either bankrupts them, thus putting them out of farming and perhaps at hunger's door, or it means that they do not have any profit that they can use to re-

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52. See Alexander Sarris, *Price and Income Variability*, Workshop on Emerging Trade Issues in Agriculture, OECD (1998).

53. See *The Food Situation in the Least Developed and Net Food Importing Developing Countries*, FAO paper presented to the WTO Committee on Agriculture (November 20-21, 1997).

54. See Panos Konandreas, Jim Greenfield and Ramesh Sharma, *The Continuation of the Reform Process in Agriculture: Developing Countries' Perspectives*, paper presented to seminar on Latin America and the Caribbean in Face of the Furthering Process of Multilateral Agricultural Reforms (Nov. 23-24, 1998).

invest for improving yields. In both cases, the right to food is being violated in both the short term and the long-term. Many of the more severely affected countries in the WTO, primarily members of the Least Developed Countries (LDC) group and the Net Food-Importing Developing Countries (NFIDC) group, have been calling on the international agencies to address the problems being created by the Uruguay Round. Analysis by the FAO since 1995 suggests that for all low-income food deficit countries, their food import bill will indeed be \$9.8 billion higher in the year 2000 than at the start of the Uruguay Round negotiations, of which \$3.6 billion – a 14 percent increase – would be directly attributable to the Uruguay Round results.<sup>55</sup> The International Monetary Fund (IMF) disputed the FAO findings, however, on grounds it overstated the degree of liberalization likely to occur from 1995-2000 and subsequently overstated the likely price changes. The IMF claimed the 1996 “food price spikes” were “unrelated to the Round” and that “declining stocks [predicted as an outcome of the Round] do not necessarily imply proportional declines in food aid.”<sup>56</sup> With this disagreement over price projections and their direct causes in hand, the WTO Committee on Agriculture decided in 1996 not to trigger the “Marrakesh Decision,”<sup>57</sup> which committed developed countries to provide compensation to low income food deficit countries if they are adversely affected by higher food prices as a result the AoA.<sup>58</sup>

In an attempt to address this conflicting documentation on Uruguay Round specific food security impacts, the South Centre, an intergovernmental agency in Geneva that serves as a think-tank for its developing country members, has prepared a 27-point “Checklist to Assist the Preparation of Country Experiences on the Impacts of the WTO Agreement on Agriculture” that gives some indication of the kinds of impacts they believe the WTO is having on their food supply and security.<sup>59</sup>

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55. See *The State of Food and Agriculture: Agricultural Trade, Entering a New Era?*, FAO Agricultural Series No. 28, ISSN 0081-4539 (1995).

56. International Monetary Fund Working Paper, *The Uruguay Round and Net Food Importers* (1995).

57. Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, *see supra*, note 4.

58. See Penny Fowler, *The Marrakesh Decision: Honouring the Commitment to Net Food-Importing Developing Countries*, Catholic Institute for International Research Briefing (Sept. 1996).

59. South Centre, *Checklist to Assist the Preparation of Country Experiences on the Impacts of the WTO Agreement on Agriculture: Food Security*,

**BOX I: ELEMENTS OF THE "CHECKLIST TO ASSIST THE PREPARATION OF COUNTRY EXPERIENCES ON THE IMPACTS OF THE WTO AGREEMENT ON AGRICULTURE" PREPARED BY THE SOUTH CENTRE, GENEVA [EXCERPTED]**

**Market Access**

1. What are the major agricultural exports? Identify new exports, if any, in the post Uruguay Round period.
2. Which are the major markets for major agricultural exports? Identify new markets, if any.
3. What is the share of agricultural exports in the total country exports? Identify any increase or decrease, if any, in the post Uruguay Round period.
4. What are the major agricultural exports that benefit from any preferential market access in the developed markets? Identify any increase or decrease in the volume of such exports.
5. What are the major agricultural exports that are subject to tariff rate quotas? What have been the rates of utilization of these tariff rate quotas?

**V. USING THE WTO AGRICULTURE TALKS TO PROMOTE ECONOMICALLY AND ECOLOGICALLY SUSTAINABLE AGRICULTURE**

The key components of sustainable agriculture – adequate income, reduced dependency on chemicals, cost internalization, and movement towards ecologically modern practices – are essential to the achievement of what is called “multifunctional agriculture.” This concept recognizes that farmers provide many products and services to the whole society, beyond food and fiber. These functions include the maintenance of healthy land and clean water, soil fertility and genetic diversification, habitat preservation, carbon sequestration, flood control, employment, open space, beautiful vistas, recreation, renewal opportunities, and protected greenbelts and wildlife.

Sometimes referred to as “public goods,” these positive non-commercial services supplied by agriculture are rarely valued in the marketplace. Even the use of economic instruments to correct market failures towards sustainable development has traditionally focused on the negatives. For example, eco-taxation

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Farmers and a Fair Place for the South, Institute for Agriculture and Trade Policy, Foundation Charles Leopold Mayer pour le Progrès de l'Homme, Solagral (Sept. 30 – Oct. 4, 1998).

Food Security

1. What are the major food imports? What are the major sources of these imports?
2. What is the share of food imports in total imports? Identify any increase or decrease in the share in the post Uruguay Round period.
3. What is the value of food imports as a percentage of total export earnings? Identify any increase or decrease.
4. What is the share of food aid in the total food imports? Identify any increase or decrease.
5. What is the share of domestic food production in the total domestic food requirements? Identify any increase or decrease.
6. What has been the trend of staple food prices in the domestic market?

General

1. What is the total area under cultivation? Identify any increase or decrease in the post Uruguay Round period.
2. What are the areas under cultivation of food and export crops respectively? Identify any changes.
3. What is the share of the total labor force employed in the agricultural sector?
4. What is the rate of rural unemployment? Has it increased in the post Uruguay Round period?
5. What is the percentage of population living in rural areas? Identify any increase or decrease.
6. What is the size of the average farm? Has it increased? It will also be helpful to include the experience of small/subsistence farmers.

*Excerpted from the Annex of the Proceedings of the Washington DC Meeting on the WTO Agreement on Agriculture: Food Security, Farmers and a Fair Place for the South, organized by the Institute for Agriculture and Trade Policy, Fondation Charles Leopold Mayer pour le Progres de L'Homme and Solagral, 30 September - 4 October, 1998.*

along the lines of the "polluter pays principle" (PPP) has been proposed to bring pesticide prices up to their "real" level<sup>60</sup> or to reduce nutrient surpluses.<sup>61</sup> Production of positive externalities, it is argued, should be rewarded according to a mirror of the PPP; some suggest this approach be called the "provider gets

60. See David Pearce and Robert Tinch, *The True Price Of Pesticides, in BUGS IN THE SYSTEM: REDESIGNING THE PESTICIDE INDUSTRY FOR SUSTAINABLE AGRICULTURE* 50-93 (William Vorley and Kenney eds., 1998).

61. See Ministry of Agriculture, Nature Management and Fisheries, The Netherlands, Policy Document on Manure and Ammonia, <<http://www.minlnv.nl/international/policy/enviro/>>.

principle" (PGP)<sup>62</sup> or, perhaps, the "stewardship is rewarded principle" (SRP) or the "pay for provision of public goods principle" (PPG). And a wide range of economic and policy instruments are available to reward the producers of multifunctional agriculture. These include subsidies, grants, tax concessions, technical assistance and improved access to markets through, for example, government procurement<sup>63</sup> — all of which can be applied at any level of government, including the local level.<sup>64</sup>

We believe that the application of basic economic and ecological criteria to new systems of multifunctional agriculture is the best way to re-create sustainable farming systems and rural communities. To accomplish this, we believe that the following changes need to be made to current WTO rules to support, instead of harm, economic and ecologically sustainable agriculture. Sustainable agriculture needs to be supported by WTO rules that include the following: (1) Phasing out export dumping; (2) Banning of export subsidies; (3) Global anti-trust measures that address a wide-range of anti-competitive business practices; (4) Support for government assistance to farmers making the transition to more sustainable farming practices; (5) Support for the development of multifunctional agriculture, including policies for rewarding farmers for provision of green services to society that are transborder or global in nature; (6) Consumer labeling and government procurement practices to encourage sustainable agriculture; (7) Mechanisms for tariff and non-tariff measure adjustments in response to currency fluctuations; and (8) Protection of national and regional supply and demand balancing mechanisms, including the use of quantitative import and export regulations and domestic supply management programs.

## VI. USING THE WTO AGRICULTURAL TALKS TO PROMOTE THE HUMAN RIGHT TO FOOD SECURITY

The United Nations Universal Declaration of Human Rights is fairly clear in its declaration of the centrality of food security as a fundamental human right. Article 25.1 states that "Every-

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62. See *Environmental Effects of Trade Liberalization in the Agricultural Sector*, Submission by Norway to the WTO Committee on Trade and Environment, WT/CTE/W/100 (Jan. 8, 1999).

63. See Robert J.P. Gale and Stephan R. Barg, *The Greening Of Budgets: The Choice Of Governing Instrument*, in GREEN BUDGET REFORM 1-27 (Robert J.P. Gale, Stephan R. Barg, and Sandy Gillies eds., 1995).

64. van Broekhuizen R, L. Klep, H. Oostindie and J.D. van der Ploeg, *RENEWING THE COUNTRYSIDE* (1997) (in author's possession).

one has the right to a standard of living adequate for the health and well-being of himself and of his family, including food.” There is a growing concern among human rights leaders and activists around the planet about the growing number of human rights violations that may be directly attributable to the actions of global institutions, such as the World Bank, the IMF and the WTO. Over the past few years, NGOs from all over the world have been meeting to discuss the threats to food security posed by the current world trading system and to develop specific proposals for changes in WTO rules that would help move the world trading system in ways that would tend to support instead of discourage food security.<sup>65</sup> A consensus seems to be forming around a package of seven major reforms.

First, we need specific language in the WTO protecting the right of nations to take action to protect the most vulnerable people in their societies in times of economic crisis. For example, India has proposed that developing countries be allowed, under the AoA Article 20 on “Non-Trade Concerns,” to implement agricultural and other policies to pursue food security objectives without facing AoA sanctions.<sup>66</sup> Other “non-trade concerns,” such as the relationship of agriculture to culture – in terms of cosmologies, rites of passage, social celebrations, family and community institutions, traditional clothing and cuisine, and innumerable other social norms – are also of significance. The use of government intervention to protect food security and cultural traditions should be respected by the WTO.

Second, the WTO should encourage countries to take measures to encourage domestic food production for domestic food consumption. The current WTO rules are based on the idea that nations will be better off if they “import their food security.” This kind of ideological approach has been a disaster for many

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65. For historical background of the problem of implementing food security as a human right, see Orin Kirshner, *Human Rights Lost: A (Very) Short History of the Post-World War II Global Food and Agriculture Policy Regime*, Institute for Agriculture and Trade Policy (May 15, 1996). For a review of NGO activities in food security as a human right, see *Needs vs. Rights and the Right to Food* <<http://www.iatp.org/iatpHR50>>. For discussion of the AoA and its impacts on food security, see *International Workshop on WTO Agreement on Agriculture*, Research and Information System for the Non-Aligned and Other Developing Countries, Institute for Agriculture and Trade Policy and ActionAid (1998); and see *Washington, D.C., Meeting on the WTO Agreement on Agriculture: Food Security, Farmers and a Fair Place for the South*, Institute for Agriculture and Trade Policy and Foundation Charles Leopold Mayer pour le Progres de l'Homme and Solagral (1998).

66. See *Food Security: An Important Non-Trade Concern – An Informal Paper by India*, THIRD WORLD ECONOMICS, Feb. 1-15, 1999, at 15.

nations and has led to severe criticism of the WTO by nearly every development NGO and agency. WTO rules that make it a violation of trade rules to use government intervention to support local farmers must be replaced by new rules that enable countries to effectively address economic crisis facing family and peasant farming, in both North and South countries.<sup>67</sup> Some WTO members have already begun making specific proposals along these lines.

Third, current WTO provisions that have encouraged nations to eliminate emergency food storage facilities and programs should be repealed. Stocks of food held near centers of population in virtually every country are one of the most important components of any successful food security scheme. The elimination of many of these food reserves since the signing of the Marrakesh Agreement has resulted in huge price fluctuations and dangerously low levels of reserve food stocks on more than one occasion.<sup>68</sup>

Fourth, WTO rules should be changed to support greater diversity in food production systems. A key to food security is the maintenance of regionally diverse agricultural systems, often characterized by sustainable practices on a smaller scale. These include the maintenance of biological diversity, such as the cultivation of land races and vigorous communities of insects and microbial life on a healthy diversified farm.<sup>69</sup> Perhaps most importantly, food security depends upon access to food within a region, regardless of comparative advantage and market forces.

Fifth, there needs to be more done to ensure that the WTO does not violate workers' rights to organize for collective bargaining and to receive wages adequate to maintain a healthy diet and standard of living. While half of the world's population still lives on the land, the other half are in or near cities and dependent on their earnings to buy food for their families. Employment and wages have fallen in many countries since the signing of the WTO agreement, yet there has been no reaction other than admonitions for "staying the course" and experimenting with even more radical economic de-regulation. WTO

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67. See Japan to Stress Self-Sufficiency in Food at WTO Talks, PF TODAY, June 17, 1999.

68. See Mark Ritchie and Karen Lehman, *Food Shortages, Sustainable Agriculture and Hunger: The Paradox of Higher World Market Prices for Grains*, Institute for Agriculture and Trade Policy (1996).

69. For a discussion of the significance of the relationship between ecosystem health and biological diversity see Gretchen Daily, NATURE'S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS, (1997.)

rules must accommodate other international guarantees of workers' rights in order to help address the problems of food insecurity facing many in our cities.

Sixth, global rules must advance local, state, and national efforts to prevent or break-up monopolies in the food and agriculture sectors. The end result of all monopolies is higher costs and lower efficiency. Furthermore, great power can be wielded by whomever controls the food supply. While food has often been used as a weapon by corrupt political leaders, the controlling forces now are transnational corporations that in economic terms are bigger than most nations.

Seventh, there is a call for the creation of a working group or committee at the WTO on Trade and Food Security, along the lines of the current Committee on Trade and Environment (CTE). This is seen as the beginning of recognition by the WTO that their actions affect food security and that they have a responsibility, as members of the United Nations family of global institutions, to support the commitments to economic, social, cultural, civil, and political human rights detailed in the Universal Declaration of Human Rights.

#### VII. POLITICAL CONTEXT OF THE UPCOMING WORLD AGRICULTURAL TRADE NEGOTIATIONS

In 1986, when the Uruguay Round began, negotiators assumed that their four year schedule of global trade talks would be business as usual. Nobody outside the closed fraternity of trade negotiators knew anything about the GATT, which meant that negotiations could go forward as they had in the past — without public input and without political oversight or approval at the end. Since most of the talks were in secret, no documents were released to the public.<sup>70</sup> At least in the beginning, the negotiators were correct in their assumption that there would be very little questioning of their actions, motivations, or judgments.

Alongside these institutional barriers of secrecy was another factor that limited public participation or democratic assessment. Almost no family farmer, peasant or any other citizen organization on the planet had ever heard of the GATT, except perhaps in passing, and none knew anything about the past actions, emerging debates, or the potential implications. Ignorant

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70. See, e.g., Rosine Plank, *An Unofficial Description of How a GATT Panel Works and Does Not*, 29 SWISS REVIEW OF INT'L COMPETITION L. 81 (1987).

citizen groups were bliss as far as the GATT negotiators and bureaucrats were concerned. Fortunately, public ignorance of the Uruguay Round was to be short-lived. Four key developments changed this political formula.

First, there was a revolution in global communications technology. The advent of faxes, email, the internet, and cheap overseas long distance calling greatly accelerated the spread of information around the globe. Cross-border connections and collaborations in the 1970s and early 1980s, such as the Nestle Boycott and the gatherings of the United Nations Conference on Trade and Development (UNCTAD), which encouraged the engagement of non-governmental organizations, laid the ground work for citizen groups – both North and South – to communicate, collaborate and share information on the new GATT round at a level never before imagined. The concerns of the handful of people that saw the importance of these talks could be easily, cheaply, and widely communicated with activists, media, and opinion-leaders all over the planet. With electronic communications, the “voices crying out in the wilderness” could be heard around the planet. The daily news bulletin on the Uruguay Round, published by the Institute for Agriculture and Trade Policy, eventually reached tens of thousands of subscribers.<sup>71</sup>

Second, a new generation of global activists came of age. Thanks to prior campaigns, there already existed a network of sophisticated global thinkers, analysts, and activists. Most were not previously familiar with the GATT or trade per se, but as they tuned in electronically, they immediately understood the pattern. These folks were already active in national and global networks working on issues such as poverty, hunger, environmental degradation, and human rights and, as they understood the stakes, began to gather staff and resources with which to begin campaigning on GATT.<sup>72</sup>

Third, many GATT insiders failed to notice that the veil was being lifted. Negotiators were accustomed to secrecy and negotiating traditions outside the realm of normal democratic accountability – circumstances that were ripe for abuse. The kinds of proposals made, especially by the Reagan Administration,<sup>73</sup>

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71. To consult these and other IATP bulletins, see <<http://www.newsbulletin.org/>>.

72. See Chakravarthi Raghavan, *RECOLONIZATION: GATT, THE URUGUAY ROUND AND THE THIRD WORLD* (1990).

73. The Reagan Administration appointed a long-time executive of the Cargill company, one of the world's largest grain traders, to head the U.S. delegation in the AoA talks. Members of the Multilateral Trade Negotiation Coalition

were so radical and outrageous that it became easy to paint a picture of the GATT as a monster (e.g. "GATTzilla") aimed at destroying environmental laws, family farmers, poor people and all that was good. Corporate greed generated a sharp backlash.

Fourth, GATT extended into the realm of domestic politics. Many of the most extreme proposals had nothing to do with international trade rules but were instead aimed at overturning domestic laws and regulations via the secretive process of trade negotiations. For example, the attempt (ultimately successful) by Presidents Reagan, Bush, and Clinton to use the Uruguay Round to overturn U.S. patent law engendered fierce opposition from small inventors who saw this change as a threat to their well-being.<sup>74</sup>

As part of the arrogance that characterized these negotiations, many of the key GATT negotiators embellished their speeches to favorite constituency groups with boasts and promises about what domestic laws they were going to get rid of via the GATT. US Trade Representative Clayton Yeutter was one of the most public and vocal, promising chemical industry groups and others that he was using the Uruguay Round talks to overturn US environmental and consumer protection laws that he and President Reagan did not like. In an article purporting to balance trade and environmental interests, Yeutter said that "we need to 'Gatt' the greens, not green the Gatt."<sup>75</sup>

These four dynamics eventually led to the creation of a global campaign of local and national groups that began to knit together the information, analysis, and political strategy needed to start bringing democratic review and input into the global trade negotiations process. The Uruguay Round (along with the debate over the NAFTA) turned out to be the turning point in the development of an informed public debate about the institutions of global economics and finance and about the dynamics of global policymaking.

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that advised the U.S. Trade Representative at that time included Cargill, Ralston-Purina, ADM, General Mills, General Foods, Continental Grain, RJR Nabisco and Con Agra. It is not surprising that the Uruguay Round results meet the needs of those corporations to a great extent, rather than sustainable agriculture or rural development in either the North or the South.

74. See W. John Moore, *Reinventing Patents*, NAT'L FOCUS, March 20, 1993, at 694.

75. Clayton Yeutter, *Getting' the Greens - Environmentalists must live with trade*, FIN. TIMES, September 2, 1994, at 14. For more examples of this tendency to use trade talks as a convenient and largely secretive way to overturn or undermine domestic laws and regulations, see Walter Russell Mead, *Bushism Found*, HARPER'S MAG., February 1992.

Since the end of the Uruguay Round, these networks have continued to grow and to develop in knowledge, strength, and experience. Many new groups have begun to follow trade issues as they discover that the World Trade Organization, the new name for the GATT, is making rules that affect some aspect of their work. For example, many environmental organizations that ignored the Uruguay Round have become very involved as they have seen the WTO dispute settlement process resulting in attacks on basic environmental programs.<sup>76</sup>

The announcement by the White House that they planned to bring the next Ministerial to the United States and to use it to launch a new round of negotiations has touched off a flurry of new organizing efforts and preparations. It is clear from the initial response to the idea of a new round of talks that things will be very, very different this time. The following is a short list of some of the new conditions that will influence the next round of talks.

#### A. PUBLIC AWARENESS

During the Uruguay Round, the GATT was almost completely unknown. The World Trade Organization is, however, relatively well known; many organizations are tracking its activities on a day to day basis. It is not yet as publicly recognized as the IMF or World Bank, but it is no longer the world's best kept secret. With the low cost of email, even the smallest organizations in the poorest countries have access to the latest WTO news 24 hours a day, seven days a week.

#### B. ACCOUNTABILITY, ACCESS, AND PARTICIPATION

Many local, national and international groups working on specific issues, such as hunger or human rights, now understand that there is a connection between their issue and trade. Many see how trade, trade rules, and trade disputes affect their work, and they are active on trade and WTO issues. During the last

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76. See, e.g., *World Trade Organization and the Environment: Technical Statement by United States Environmental Organizations*, addressed to Deputy U.S. Trade Representative Susan G. Esserman and the Environmental Protection Agency's Acting Deputy Administrator Peter D. Robertson (July 16, 1999). For more detailed discussion, see Daniel Esty, *Greening the GATT: Trade, Environment and the Future*, Institute for International Economics (1994); and Steve Charnovitz, *Improving Environmental and Trade Governance*, INT'L ENV. AFF., Winter 1995.

round the number of groups who saw the connections was very small.

#### C. NGO-GOVERNMENT COOPERATION

There is a new collaboration among NGOs and some governments, especially in the countries of the South. During the last round of talks, governments and NGOs did not see their mutual interest, but this has changed. Today, many NGOs are conducting training sessions for negotiators from the South, NGOs are serving on advisory committees and delegations, and there is a great deal of collaboration on the development of negotiating goals and objectives.

#### D. TRANSPARENCY

In the Uruguay Round all documents were treated as state secrets. Other than the negotiators, the only people who could get their hands on even the most innocuous proposals and reports were corporate officials who could afford the thousands of dollars needed to subscribe to the exclusive "insider" newsletters and bulletins. Documents are now more readily available and many end up on the Internet or on the WTO web site. With the aid of foreign language translation software, it is now possible to make most documents available to most groups at no cost on a timely basis. In the Uruguay Round it was a struggle to find out what was going on and then to share this information. The danger in the next round of talks will be one of overload leading to paralysis — as the flow reaches "drinking from a fire hose" proportions.

#### E. NEW INSTITUTIONS, NETWORKS, AND COALITIONS

During the Uruguay Round there was no existing infrastructure for monitoring the talks, sharing information, drawing conclusions, setting objectives and priorities, or carrying out coordinated efforts. This time around it will be very, very different. For example, NGOs have a specific center in Geneva, the International Centre for Trade and Sustainable Development,<sup>77</sup> that serves as an information source, liaison, and "temporary office" for NGOs working on WTO issues. There are regular meetings and conference calls among the most active groups on a global

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77. International Centre for Trade and Sustainable Development. The Centre's weekly trade news digest, BRIDGES, may be consulted at <<http://www.icstd.org>>.

basis, and many of constituency groups have developed a consensus on their own specific objectives for the next round of negotiations.

#### F. INFORMED MEDIA

In the past only a tiny number of reporters covered trade and, for the most part, they were so close to the negotiators and the GATT secretariat that they lacked basic objectivity. This time around, all kinds of press – from food and lifestyle features to science and environment journals to daily newspapers to the major broadcast stations – are tuned into trade and the WTO. The Seattle Ministerial Meeting of 1999 and subsequent negotiations will be covered from a wide range of perspectives.

#### G. REALITY VS. COMPUTER PROJECTIONS

Much of the debate during the Uruguay Round centered on computer projections made by governments and intergovernmental organizations, such as the World Bank. Their computers claimed that “all ships will rise” under the terms of the final agreement signed in Marrakesh, Morocco. It turns out that this was not true. This time around, the debate will include an assessment of what has already happened, the invalidity of the prior, and therefore future, computer projections, and the need to build in assessment, evaluation, and escape clauses in case future government and intergovernmental organization predications continue to be unreliable.

#### H. SHIFT IN POWER

In the Uruguay Round, concerned groups could raise some issues, but had virtually no impact on the outcome. As a result, the rules of trade have few constraints or safety nets. At the same time, a number of governments from Southern countries expressed grave reservations about where the talks were headed and the potential negative impact on their countries. In the end, both the governments of the South and the NGOs have been proven right – the Uruguay Round agreement has been bad for the environment, consumers, and for food security in the South. Critics have been largely vindicated. In the US, this reality has led to a rethinking by many in Congress about the wisdom of blindly following the lead of the President on trade matters, as the 1998 defeat of “fast track” negotiating authority demonstrated.

We have reached a new stage in the debate where the concerns of environmental, consumer, farm, labor, human rights and other groups have come together to form a powerful lobby. Many governments of the South are now providing the leadership to challenge the old assumptions. This new bloc of South country governments and NGOs from around the planet could turn out to be the defining axis in the next talks.

#### I. NEW MODELS

In the past there were only a few models of successful global campaigning, such as the Nestle boycott. Today, there is a wide array of models for citizen action at the global level. The veterans groups that forced governments to agree to a land mines treaty that the veterans had formulated offers an inspired example. Environmental groups have successfully influenced the implementation of the Framework Convention on Climate Change and peasant communities are working to ensure that the Convention on Biological Diversity guarantees their rights to save seeds. The defeat of the Multilateral Agreement on Investment was a momentous victory for non-governmental activists worldwide. This next round of WTO talks will have these victories and models to draw upon.

#### J. POSITIVE ALTERNATIVES

During the last round of trade talks, citizens were largely marginalized. In the intervening years we have gained enough power to block a continuation of "business as usual," but this is not enough. The crisis in the world economy, ranging from disastrously low farm and commodity prices to unstable currencies and wild speculation caused by "hot money" investments, have to be tackled at the global level as part of the next round of trade talks. In addition to defending themselves from attack, like those they suffered during the Uruguay Round, citizen groups are beginning to prepare for using the next round to advance positive ideas.

### VIII. THE POLITICAL CHALLENGE AHEAD: SAVING THE WTO

All three Bretton Woods Institutions – the International Monetary Fund, the World Bank, and the World Trade Organization – are under fire both from the public-at-large and from politicians. There are specific recent instances that contribute to this political difficulty, such as the financial derivatives-gen-

erated and IMF-mishandled Asian financial crisis;<sup>78</sup> the ongoing inability of the World Bank to effectively carry out its mission;<sup>79</sup> and attacks on family farmers and environmental regulations by the WTO.<sup>80</sup> Beyond these specifics is a fundamental critique of the concepts and practices of neo-liberal economic theory and their collective support for anything promoted as globalization.

At the end of the day, how the public comes to view these institutions will reflect on much broader concepts, such as the rule of law in international affairs. If the WTO continues to be viewed as "captured" by a narrow group of corporate interests and as promoting policies and practices bad for the environment, working people, farmers, and consumers it will continue to undermine general public support for the entire international system that was built up after the Second World War.

From 1995-98, the Institute for Agriculture and Trade Policy organized a series of conferences on the 50<sup>th</sup> anniversaries of the founding of the major post war global institutions, including the UN, World Bank, IMF, WTO, FAO and the Universal Declaration of Human Rights. These conferences featured the surviving founders of each institution and were held in the original sites of the founding conferences. At the conference held on the 50<sup>th</sup> anniversary of the GATT, World Bank, and IMF there was an urgency expressed by many of the 30 founders and early leaders gathered. They were well aware of fading public support and growing political hostility to these institutions and quite frank in their assessments of the problems with the institutions at present and the needs for reform.<sup>81</sup>

A theme that was repeated over and over was the need for the institutions to shift from defending the interests of a few favored industries or companies towards supporting the broad

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78. For perspective on the Asian financial crisis, see *The Crisis in Context: An Interview with Dr. Michael Chossudovsky*, THE BIG PICTURE (Feb. 1999), at 1; Chakravarthi Raghavan, *Asian crisis a major market failure, says UNCTAD*, SOUTH NORTH DEV. MONITOR (Feb. 2, 1998); and Walden Bello, *The End of a "Miracle:" Speculation, Foreign Capital Dependence and the Collapse of the Southeast Asian Economies*, MULTINATIONAL MONITOR, January-February 1998, at 10-16.

79. See Bruce Rich, *The Smile on the Child's Face: 1998 Epilogue to Mortgaging the Earth* (1998).

80. See Steve Charnovitz, *Addressing Environment and Labor in the WTO*, remarks presented at the Conference on "The Next Trade Negotiating Round: Examining the Agenda for Seattle," (July 22, 1999); and *Letter and Technical Statement from U.S. Environmental Organizations*, *supra* note 77.

81. For a selection of papers about the 1948 Bretton Woods conference and the GATT's founders and early leaders, see THE BRETTON WOODS-GATT SYSTEM: RETROSPECT AND PROSPECT AFTER FIFTY YEARS (Orin Kirshner ed., 1996).

aims and aspirations of society. In regards to the World Trade Organization, this advice seems precisely on target. A growing percentage of the public wants government agencies—at all levels—to be more responsive to the needs of the individuals and of the planet. Global institutions such as the WTO are no longer insulated or isolated as they were in the past. Their actions will be judged by their affect on the real world, not by computer projection of rosy futures or fidelity to any one particular economic theory or ideology.

The main issues explored in this article, sustainable agriculture and food security, are only two in a whole sea of concerns that people will be using to judge the WTO by in the future. In the next set of talks, WTO negotiators could resolve many of the problems created by the Uruguay Round. If they do so, it would help restore the public trust that has been squandered by this institution. For those of us who believe passionately in the need for global cooperation and in the rule of law in international affairs, it is crucial that we help move the WTO and other global institutions away from defending a few special interests, and in the direction of actively supporting the values and concerns of the vast majority of the public in every country of the world.