

Operation of the WTO in the Context of Overall U.S. Trade Policy Objectives
Comments by
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Introduction

- It is always a pleasure to read and listen to the views of Alan Wolff on any aspect of U.S. trade policy. Alan has been involved in trade policy both as a public official and a private practitioner for many years, and is always a keen and thoughtful observer of developments in this area. He has not disappointed us with his analysis of the topic of this panel.
- Like Alan, I think it is too early to say definitively whether we reached the high-water mark of 65 years of trade liberalization prior to Seattle. I suspect that over the longer term, however you wish to define the longer term, that is not the case. But Seattle was significant in that it illustrated that we have apparently reached, at least for the time being, an international impasse on whether and how we move to the next level of trade liberalization and trade obligations multilaterally. This international impasse is analogous to the domestic impasse on trade that has existed since passage of the Uruguay Round Agreements Act in late 1994. What is clear from both Seattle and the U.S. political situation is that the road ahead on trade policy, in whatever direction it may lead, promises to be a very, very rocky road indeed.

Defining the U.S. National Interest

- Alan discusses extensively what constitutes the national interest in trade. He notes that the major tenet of U.S. trade policy has been that largely unfettered operation of market forces will provide the greatest gain for the U.S. and the world. While I agree, I would also note that an important corollary to this for U.S. policy makers has been the desire to remake the world in the U.S. image with respect to other countries' economies and trade regimes – whether with respect to intellectual property rights, investment policy, product standards, government procurement, agricultural policy, antidumping regimes and so forth. U.S. negotiators invariably start from the proposition that we should take the U.S. system as the basis for U.S. negotiating positions and impose our system to the maximum extent possible on the rest of the world. This may be a sound ideological and domestic political strategy but it understandably breeds suspicion and resentment by our trading partners, which in turn affects our ability to negotiate positive outcomes, either multilaterally or bilaterally.
- Alan suggests that trade policy may have to be shared in the future with those making non-traditional demands on trade – labor, environmental and human rights activists, for example. I think that the reality is that we have already reached the point of no return on this subject, even if a Republican President is elected, but the point of no return was reached much before Seattle. I think the turning point domestically came with NAFTA and internationally with President Clinton's 1998 speech to the WTO on the occasion of its 50th anniversary.
- Alan asserts that the U.S. ability to open foreign markets bilaterally has been constrained by the WTO and passage of the Uruguay Round Agreements Act, which has rendered Section

301 ineffective as a tool to exact bilateral concessions from our trading partners. While this may be true, one must ask whether overall we are better off with the WTO system or without it now that we have the benefit of 5 years of experience? Alan's answer seems to be a qualified maybe.

Three Strikes and Your're Out

- In this regard, he believes that the WTO rules-based trading system has worked well in some areas but not in others. He also cautions that there are potential developments that could ultimately turn U.S. domestic sentiment against the WTO – involving primarily Japan, dispute settlement, and antidumping issues (Alan's version of three strikes and you're out.) For example, the WTO system has worked well on traditional market access issues for industrial goods, not so well on agriculture, and not at all on Japan. (Strike One) The verdict is still out on some of the newer issues. He also believes that binding WTO dispute settlement has been at best a mixed experience for U.S. interests, with ominous clouds on the horizon for some high profile cases in which the U.S. is a defendant. (Strike Two). Finally, if antidumping ever reappears on the WTO negotiating agenda, it could be the straw that breaks the camel's (or WTO's) back. (Strike three)
- Alan concludes that we should stick with the WTO but it should not be the sole avenue for solving all our trade problems with other countries. However, he implies that, with the apparent emasculation of Section 301, additional courses of action may be difficult to identify and to execute.

Several Observations

- Alan does not really comment on the impressive body of international law that has been developed in the Uruguay Round agreements or whether this has advanced U.S. interests. In my view, the value of this body of law for U.S. interests is immense and has great significance for reshaping the structure of the world economy over time in a way compatible with U.S. interests – whether in more traditional WTO developing country members such as Brazil or India, or in new or prospective WTO members, such as China or the former Soviet republics. There is the important question of effective implementation of these agreements but the Uruguay Round agreements, in my view, form the basis for years to come of a strong, vibrant trading system, regardless of what happens in the near to medium term on a new round of negotiations.
- At the same time, I do agree with Alan that the WTO perhaps cannot be the sole vehicle to solve all U.S. trading problems. Nonetheless, the WTO is and should remain the centerpiece and lynchpin of U.S. trade policy. As for bilateral solutions, while the way Section 301 can be used has changed, Alan failed to mention that bilateral FTAs are still an option, such as we are doing with Latin America. I also believe that there are creative ways that we can use the WTO in a bilateral context to solve problems that have been both unutilized or underutilized (e.g. involving consultations, mediation, and arbitration procedures).

- As for Japan, which has been a justifiable preoccupation of U.S. trade policy (and of Alan's) for 25 years, there are no apparent or easy answers, WTO or otherwise. If there were easy solutions, our many legions of U.S. trade negotiators dealing with Japan over the years would have uncovered them long ago. Ironically, not so long ago there were those in the U.S. private sector urging that new competition rules be negotiated in the WTO to get at the Japanese. Although the U.S. Department of Justice is the major impediment to this, why the U.S. private sector has reversed its position on this is still unclear to me. The Europeans have pursued a competition policy agenda in the WTO precisely to get at the Japan problem, at least that was what I have been told by EU Commission officials.
- Finally, a word about China. In a way the U.S. is rolling the dice with respect to Chinese accession to the WTO. Chinese accession to the WTO could have a major but unknown impact on the organizational dynamics of how the WTO operates, which seems to be lost in the current debate in the United States. But the U.S. administration has apparently decided to run that risk, assuming Congress passes permanent NTR, because of the immense gains that it believes are possible if China accedes to the WTO, both in economic and in political terms. So the political debate on China in the United States this year will be a defining moment, both for the WTO and for the future direction of U.S. trade policy.